

As Introduced

**126th General Assembly
Regular Session
2005-2006**

S. B. No. 164

Senators Schuring, Gardner, Stivers, Schuler, Spada, Zurz, Brady

—

A BILL

To amend sections 3313.64 and 3314.03 and to enact 1
sections 3313.718 and 3314.141 of the Revised Code 2
to permit students of school districts, community 3
schools, and chartered nonpublic schools to carry 4
epinephrine medication approved by the students' 5
physicians and parents, and to grant immunity to 6
school districts, community schools, and chartered 7
nonpublic schools and their employees for good 8
faith actions in connection with this permission. 9

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

Section 1. That sections 3313.64 and 3314.03 be amended and 10
sections 3313.718 and 3314.141 of the Revised Code be enacted to 11
read as follows: 12

Sec. 3313.64. (A) As used in this section and in section 13
3313.65 of the Revised Code: 14

(1)(a) Except as provided in division (A)(1)(b) of this 15
section, "parent" means either parent, unless the parents are 16
separated or divorced or their marriage has been dissolved or 17
annulled, in which case "parent" means the parent who is the 18
residential parent and legal custodian of the child. When a child 19
is in the legal custody of a government agency or a person other 20

than the child's natural or adoptive parent, "parent" means the
parent with residual parental rights, privileges, and
responsibilities. When a child is in the permanent custody of a
government agency or a person other than the child's natural or
adoptive parent, "parent" means the parent who was divested of
parental rights and responsibilities for the care of the child and
the right to have the child live with the parent and be the legal
custodian of the child and all residual parental rights,
privileges, and responsibilities.

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(b) When a child is the subject of a power of attorney
executed under sections 3109.51 to 3109.62 of the Revised Code,
"parent" means the grandparent designated as attorney in fact
under the power of attorney. When a child is the subject of a
caretaker authorization affidavit executed under sections 3109.64
to 3109.73 of the Revised Code, "parent" means the grandparent
that executed the affidavit.

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(2) "Legal custody," "permanent custody," and "residual
parental rights, privileges, and responsibilities" have the same
meanings as in section 2151.011 of the Revised Code.

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(3) "School district" or "district" means a city, local, or
exempted village school district and excludes any school operated
in an institution maintained by the department of youth services.

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(4) Except as used in division (C)(2) of this section, "home"
means a home, institution, foster home, group home, or other
residential facility in this state that receives and cares for
children, to which any of the following applies:

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(a) The home is licensed, certified, or approved for such
purpose by the state or is maintained by the department of youth
services.

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(b) The home is operated by a person who is licensed,
certified, or approved by the state to operate the home for such

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purpose.	52
(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state.	53 54 55
(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.	56 57
(5) "Agency" means all of the following:	58
(a) A public children services agency;	59
(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;	60 61 62 63 64 65
(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39, or sections 5103.20 to 5103.28 of the Revised Code.	66 67 68
(6) A child is placed for adoption if either of the following occurs:	69 70
(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.	71 72 73 74
(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.	75 76 77
(7) "Handicapped preschool child" means a handicapped child, as defined by division (A) of section 3323.01 of the Revised Code, who is at least three years of age but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is	78 79 80 81

not currently enrolled in kindergarten.	82
(8) "Child," unless otherwise indicated, includes handicapped preschool children.	83 84
(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.	85 86 87 88
(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least five but under twenty-two years of age and any handicapped preschool child shall be admitted to school as provided in this division.	89 90 91 92 93
(1) A child shall be admitted to the schools of the school district in which the child's parent resides.	94 95
(2) A child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies:	96 97 98 99
(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent.	100 101 102
(b) The child resides in a home.	103
(c) The child requires special education.	104
(3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies:	105 106 107 108 109 110
(a) The placement for adoption has been terminated.	111

(b) Another school district is required to admit the child 112
under division (B)(1) of this section. 113

Division (B) of this section does not prohibit the board of 114
education of a school district from placing a handicapped child 115
who resides in the district in a special education program outside 116
of the district or its schools in compliance with Chapter 3323. of 117
the Revised Code. 118

(C) A district shall not charge tuition for children admitted 119
under division (B)(1) or (3) of this section. If the district 120
admits a child under division (B)(2) of this section, tuition 121
shall be paid to the district that admits the child as follows: 122

(1) If the child receives special education in accordance 123
with Chapter 3323. of the Revised Code, tuition shall be paid in 124
accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of 125
the Revised Code regardless of who has custody of the child or 126
whether the child resides in a home. 127

(2) Except as otherwise provided in division (C)(2)(d) of 128
this section, if the child is in the permanent or legal custody of 129
a government agency or person other than the child's parent, 130
tuition shall be paid by: 131

(a) The district in which the child's parent resided at the 132
time the court removed the child from home or at the time the 133
court vested legal or permanent custody of the child in the person 134
or government agency, whichever occurred first; 135

(b) If the parent's residence at the time the court removed 136
the child from home or placed the child in the legal or permanent 137
custody of the person or government agency is unknown, tuition 138
shall be paid by the district in which the child resided at the 139
time the child was removed from home or placed in legal or 140
permanent custody, whichever occurred first; 141

(c) If a school district cannot be established under division (C)(2)(a) or (b) of this section, tuition shall be paid by the district determined as required by section 2151.357 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(D) Tuition required to be paid under divisions (C)(2) and (3)(a) of this section shall be computed in accordance with section 3317.08 of the Revised Code. Tuition required to be paid under division (C)(3)(b) of this section shall be computed in accordance with section 3317.081 of the Revised Code. If a home fails to pay the tuition required by division (C)(3)(b) of this section, the board of education providing the education may recover in a civil action the tuition and the expenses incurred in prosecuting the action, including court costs and reasonable

attorney's fees. If the prosecuting attorney or city director of
law represents the board in such action, costs and reasonable
attorney's fees awarded by the court, based upon the prosecuting
attorney's, director's, or one of their designee's time spent
preparing and presenting the case, shall be deposited in the
county or city general fund.

(E) A board of education may enroll a child free of any
tuition obligation for a period not to exceed sixty days, on the
sworn statement of an adult resident of the district that the
resident has initiated legal proceedings for custody of the child.

(F) In the case of any individual entitled to attend school
under this division, no tuition shall be charged by the school
district of attendance and no other school district shall be
required to pay tuition for the individual's attendance.
Notwithstanding division (B), (C), or (E) of this section:

(1) All persons at least eighteen but under twenty-two years
of age who live apart from their parents, support themselves by
their own labor, and have not successfully completed the high
school curriculum or the individualized education program
developed for the person by the high school pursuant to section
3323.08 of the Revised Code, are entitled to attend school in the
district in which they reside.

(2) Any child under eighteen years of age who is married is
entitled to attend school in the child's district of residence.

(3) A child is entitled to attend school in the district in
which either of the child's parents is employed if the child has a
medical condition that may require emergency medical attention.
The parent of a child entitled to attend school under division
(F)(3) of this section shall submit to the board of education of
the district in which the parent is employed a statement from the
child's physician certifying that the child's medical condition

may require emergency medical attention. The statement shall be 204
supported by such other evidence as the board may require. 205

(4) Any child residing with a person other than the child's 206
parent is entitled, for a period not to exceed twelve months, to 207
attend school in the district in which that person resides if the 208
child's parent files an affidavit with the superintendent of the 209
district in which the person with whom the child is living resides 210
stating all of the following: 211

(a) That the parent is serving outside of the state in the 212
armed services of the United States; 213

(b) That the parent intends to reside in the district upon 214
returning to this state; 215

(c) The name and address of the person with whom the child is 216
living while the parent is outside the state. 217

(5) Any child under the age of twenty-two years who, after 218
the death of a parent, resides in a school district other than the 219
district in which the child attended school at the time of the 220
parent's death is entitled to continue to attend school in the 221
district in which the child attended school at the time of the 222
parent's death for the remainder of the school year, subject to 223
approval of that district board. 224

(6) A child under the age of twenty-two years who resides 225
with a parent who is having a new house built in a school district 226
outside the district where the parent is residing is entitled to 227
attend school for a period of time in the district where the new 228
house is being built. In order to be entitled to such attendance, 229
the parent shall provide the district superintendent with the 230
following: 231

(a) A sworn statement explaining the situation, revealing the 232
location of the house being built, and stating the parent's 233

intention to reside there upon its completion; 234

(b) A statement from the builder confirming that a new house 235
is being built for the parent and that the house is at the 236
location indicated in the parent's statement. 237

(7) A child under the age of twenty-two years residing with a 238
parent who has a contract to purchase a house in a school district 239
outside the district where the parent is residing and who is 240
waiting upon the date of closing of the mortgage loan for the 241
purchase of such house is entitled to attend school for a period 242
of time in the district where the house is being purchased. In 243
order to be entitled to such attendance, the parent shall provide 244
the district superintendent with the following: 245

(a) A sworn statement explaining the situation, revealing the 246
location of the house being purchased, and stating the parent's 247
intent to reside there; 248

(b) A statement from a real estate broker or bank officer 249
confirming that the parent has a contract to purchase the house, 250
that the parent is waiting upon the date of closing of the 251
mortgage loan, and that the house is at the location indicated in 252
the parent's statement. 253

The district superintendent shall establish a period of time 254
not to exceed ninety days during which the child entitled to 255
attend school under division (F)(6) or (7) of this section may 256
attend without tuition obligation. A student attending a school 257
under division (F)(6) or (7) of this section shall be eligible to 258
participate in interscholastic athletics under the auspices of 259
that school, provided the board of education of the school 260
district where the student's parent resides, by a formal action, 261
releases the student to participate in interscholastic athletics 262
at the school where the student is attending, and provided the 263
student receives any authorization required by a public agency or 264

private organization of which the school district is a member 265
exercising authority over interscholastic sports. 266

(8) A child whose parent is a full-time employee of a city, 267
local, or exempted village school district, or of an educational 268
service center, may be admitted to the schools of the district 269
where the child's parent is employed, or in the case of a child 270
whose parent is employed by an educational service center, in the 271
district that serves the location where the parent's job is 272
primarily located, provided the district board of education 273
establishes such an admission policy by resolution adopted by a 274
majority of its members. Any such policy shall take effect on the 275
first day of the school year and the effective date of any 276
amendment or repeal may not be prior to the first day of the 277
subsequent school year. The policy shall be uniformly applied to 278
all such children and shall provide for the admission of any such 279
child upon request of the parent. No child may be admitted under 280
this policy after the first day of classes of any school year. 281

(9) A child who is with the child's parent under the care of 282
a shelter for victims of domestic violence, as defined in section 283
3113.33 of the Revised Code, is entitled to attend school free in 284
the district in which the child is with the child's parent, and no 285
other school district shall be required to pay tuition for the 286
child's attendance in that school district. 287

The enrollment of a child in a school district under this 288
division shall not be denied due to a delay in the school 289
district's receipt of any records required under section 3313.672 290
of the Revised Code or any other records required for enrollment. 291
Any days of attendance and any credits earned by a child while 292
enrolled in a school district under this division shall be 293
transferred to and accepted by any school district in which the 294
child subsequently enrolls. The state board of education shall 295
adopt rules to ensure compliance with this division. 296

(10) Any child under the age of twenty-two years whose parent
has moved out of the school district after the commencement of
classes in the child's senior year of high school is entitled,
subject to the approval of that district board, to attend school
in the district in which the child attended school at the time of
the parental move for the remainder of the school year and for one
additional semester or equivalent term. A district board may also
adopt a policy specifying extenuating circumstances under which a
student may continue to attend school under division (F)(10) of
this section for an additional period of time in order to
successfully complete the high school curriculum for the
individualized education program developed for the student by the
high school pursuant to section 3323.08 of the Revised Code.

(11) As used in this division, "grandparent" means a parent
of a parent of a child. A child under the age of twenty-two years
who is in the custody of the child's parent, resides with a
grandparent, and does not require special education is entitled to
attend the schools of the district in which the child's
grandparent resides, provided that, prior to such attendance in
any school year, the board of education of the school district in
which the child's grandparent resides and the board of education
of the school district in which the child's parent resides enter
into a written agreement specifying that good cause exists for
such attendance, describing the nature of this good cause, and
consenting to such attendance.

In lieu of a consent form signed by a parent, a board of
education may request the grandparent of a child attending school
in the district in which the grandparent resides pursuant to
division (F)(11) of this section to complete any consent form
required by the district, including any authorization required by
sections 3313.712, 3313.713, ~~and 3313.716~~, and 3313.718 of the
Revised Code. Upon request, the grandparent shall complete any

consent form required by the district. A school district shall not 329
incur any liability solely because of its receipt of a consent 330
form from a grandparent in lieu of a parent. 331

Division (F)(11) of this section does not create, and shall 332
not be construed as creating, a new cause of action or substantive 333
legal right against a school district, a member of a board of 334
education, or an employee of a school district. This section does 335
not affect, and shall not be construed as affecting, any 336
immunities from defenses to tort liability created or recognized 337
by Chapter 2744. of the Revised Code for a school district, 338
member, or employee. 339

(12) A child under the age of twenty-two years is entitled to 340
attend school in a school district other than the district in 341
which the child is entitled to attend school under division (B), 342
(C), or (E) of this section provided that, prior to such 343
attendance in any school year, both of the following occur: 344

(a) The superintendent of the district in which the child is 345
entitled to attend school under division (B), (C), or (E) of this 346
section contacts the superintendent of another district for 347
purposes of this division; 348

(b) The superintendents of both districts enter into a 349
written agreement that consents to the attendance and specifies 350
that the purpose of such attendance is to protect the student's 351
physical or mental well-being or to deal with other extenuating 352
circumstances deemed appropriate by the superintendents. 353

While an agreement is in effect under this division for a 354
student who is not receiving special education under Chapter 3323. 355
of the Revised Code and notwithstanding Chapter 3327. of the 356
Revised Code, the board of education of neither school district 357
involved in the agreement is required to provide transportation 358
for the student to and from the school where the student attends. 359

A student attending a school of a district pursuant to this division shall be allowed to participate in all student activities, including interscholastic athletics, at the school where the student is attending on the same basis as any student who has always attended the schools of that district while of compulsory school age.

(13) All school districts shall comply with the "McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for the education of homeless children. Each city, local, and exempted village school district shall comply with the requirements of that act governing the provision of a free, appropriate public education, including public preschool, to each homeless child.

When a child loses permanent housing and becomes a homeless person, as defined in 42 U.S.C.A. 11481(5), or when a child who is such a homeless person changes temporary living arrangements, the child's parent or guardian shall have the option of enrolling the child in either of the following:

(a) The child's school of origin, as defined in 42 U.S.C.A. 11432(g)(3)(C);

(b) The school that is operated by the school district in which the shelter where the child currently resides is located and that serves the geographic area in which the shelter is located.

(14) A child under the age of twenty-two years who resides with a person other than the child's parent is entitled to attend school in the school district in which that person resides if both of the following apply:

(a) That person has been appointed, through a military power of attorney executed under section 574(a) of the "National Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 U.S.C. 1044b, or through a comparable document necessary to

complete a family care plan, as the parent's agent for the care, 391
custody, and control of the child while the parent is on active 392
duty as a member of the national guard or a reserve unit of the 393
armed forces of the United States or because the parent is a 394
member of the armed forces of the United States and is on a duty 395
assignment away from the parent's residence. 396

(b) The military power of attorney or comparable document 397
includes at least the authority to enroll the child in school. 398

The entitlement to attend school in the district in which the 399
parent's agent under the military power of attorney or comparable 400
document resides applies until the end of the school year in which 401
the military power of attorney or comparable document expires. 402

(G) A board of education, after approving admission, may 403
waive tuition for students who will temporarily reside in the 404
district and who are either of the following: 405

(1) Residents or domiciliaries of a foreign nation who 406
request admission as foreign exchange students; 407

(2) Residents or domiciliaries of the United States but not 408
of Ohio who request admission as participants in an exchange 409
program operated by a student exchange organization. 410

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 411
3327.04, and 3327.06 of the Revised Code, a child may attend 412
school or participate in a special education program in a school 413
district other than in the district where the child is entitled to 414
attend school under division (B) of this section. 415

(I)(1) Notwithstanding anything to the contrary in this 416
section or section 3313.65 of the Revised Code, a child under 417
twenty-two years of age may attend school in the school district 418
in which the child, at the end of the first full week of October 419
of the school year, was entitled to attend school as otherwise 420

provided under this section or section 3313.65 of the Revised Code, if at that time the child was enrolled in the schools of the district but since that time the child or the child's parent has relocated to a new address located outside of that school district and within the same county as the child's or parent's address immediately prior to the relocation. The child may continue to attend school in the district, and at the school to which the child was assigned at the end of the first full week of October of the current school year, for the balance of the school year. Division (I)(1) of this section applies only if both of the following conditions are satisfied:

(a) The board of education of the school district in which the child was entitled to attend school at the end of the first full week in October and of the district to which the child or child's parent has relocated each has adopted a policy to enroll children described in division (I)(1) of this section.

(b) The child's parent provides written notification of the relocation outside of the school district to the superintendent of each of the two school districts.

(2) At the beginning of the school year following the school year in which the child or the child's parent relocated outside of the school district as described in division (I)(1) of this section, the child is not entitled to attend school in the school district under that division.

(3) Any person or entity owing tuition to the school district on behalf of the child at the end of the first full week in October, as provided in division (C) of this section, shall continue to owe such tuition to the district for the child's attendance under division (I)(1) of this section for the lesser of the balance of the school year or the balance of the time that the child attends school in the district under division (I)(1) of this

section.

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(4) A pupil who may attend school in the district under
division (I)(1) of this section shall be entitled to
transportation services pursuant to an agreement between the
district and the district in which the child or child's parent has
relocated unless the districts have not entered into such
agreement, in which case the child shall be entitled to
transportation services in the same manner as a pupil attending
school in the district under interdistrict open enrollment as
described in division (H) of section 3313.981 of the Revised Code,
regardless of whether the district has adopted an open enrollment
policy as described in division (B)(1)(b) or (c) of section
3313.98 of the Revised Code.

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(J) This division does not apply to a child receiving special
education.

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A school district required to pay tuition pursuant to
division (C)(2) or (3) of this section or section 3313.65 of the
Revised Code shall have an amount deducted under division (F) of
section 3317.023 of the Revised Code equal to its own tuition rate
for the same period of attendance. A school district entitled to
receive tuition pursuant to division (C)(2) or (3) of this section
or section 3313.65 of the Revised Code shall have an amount
credited under division (F) of section 3317.023 of the Revised
Code equal to its own tuition rate for the same period of
attendance. If the tuition rate credited to the district of
attendance exceeds the rate deducted from the district required to
pay tuition, the department of education shall pay the district of
attendance the difference from amounts deducted from all
districts' payments under division (F) of section 3317.023 of the
Revised Code but not credited to other school districts under such
division and from appropriations made for such purpose. The
treasurer of each school district shall, by the fifteenth day of

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January and July, furnish the superintendent of public instruction 484
a report of the names of each child who attended the district's 485
schools under divisions (C)(2) and (3) of this section or section 486
3313.65 of the Revised Code during the preceding six calendar 487
months, the duration of the attendance of those children, the 488
school district responsible for tuition on behalf of the child, 489
and any other information that the superintendent requires. 490

Upon receipt of the report the superintendent, pursuant to 491
division (F) of section 3317.023 of the Revised Code, shall deduct 492
each district's tuition obligations under divisions (C)(2) and (3) 493
of this section or section 3313.65 of the Revised Code and pay to 494
the district of attendance that amount plus any amount required to 495
be paid by the state. 496

(K) In the event of a disagreement, the superintendent of 497
public instruction shall determine the school district in which 498
the parent resides. 499

(L) Nothing in this section requires or authorizes, or shall 500
be construed to require or authorize, the admission to a public 501
school in this state of a pupil who has been permanently excluded 502
from public school attendance by the superintendent of public 503
instruction pursuant to sections 3301.121 and 3313.662 of the 504
Revised Code. 505

(M) In accordance with division (B)(1) of this section, a 506
child whose parent is a member of the national guard or a reserve 507
unit of the armed forces of the United States and is called to 508
active duty, or a child whose parent is a member of the armed 509
forces of the United States and is ordered to a temporary duty 510
assignment outside of the district, may continue to attend school 511
in the district in which the child's parent lived before being 512
called to active duty or ordered to a temporary duty assignment 513
outside of the district, as long as the child's parent continues 514

to be a resident of that district, and regardless of where the
child lives as a result of the parent's active duty status or
temporary duty assignment. However, the district is not
responsible for providing transportation for the child if the
child lives outside of the district as a result of the parent's
active duty status or temporary duty assignment.

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Sec. 3313.718. (A) Notwithstanding section 3313.713 of the
Revised Code or any policy adopted under that section, a student
of a school operated by a city, local, exempted village, or joint
vocational school district or a student of a chartered nonpublic
school may possess and use an epinephrine inhaler or an
epinephrine autoinjector to treat anaphylaxis, if both of the
following conditions are satisfied:

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(1) The student has the written approval of the student's
physician and, if the student is a minor, the written approval of
the parent, guardian, or other person having care or charge of the
student. The physician's written approval shall include at least
all of the following information:

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(a) The student's name and address;

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(b) The names and dose of the medication contained in the
inhaler or autoinjector;

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(c) The date the administration of the medication is to
begin;

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(d) The date, if known, that the administration of the
medication is to cease;

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(e) Written instructions that outline procedures school
personnel should follow in the event that the anaphylaxis
medication does not produce the expected relief from the student's
anaphylaxis;

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(f) Any severe adverse reactions that may occur to the child

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using the inhaler or autoinjector that should be reported to the physician;

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(g) Any severe adverse reactions that may occur to another child, for whom the inhaler or autoinjector is not prescribed, should such a child receive a dose of the medication;

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(h) At least one emergency telephone number for contacting the physician in an emergency;

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(i) At least one emergency telephone number for contacting the parent, guardian, or other person having care or charge of the student in an emergency;

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(j) Any other special instructions from the physician.

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(2) The school principal and, if a school nurse is assigned to the student's school building, the school nurse has received copies of the written approvals required by division (A)(1) of this section.

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If these conditions are satisfied, the student may possess and use the inhaler or autoinjector at school or at any activity, event, or program sponsored by or in which the student's school is a participant.

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(B)(1) A school district, member of a school district board of education, or school district employee is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from a district employee's prohibiting a student from using an inhaler or autoinjector because of the employee's good faith belief that the conditions of divisions (A)(1) and (2) of this section had not been satisfied. A school district, member of a school district board of education, or school district employee is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from a district employee's permitting a student to use an inhaler or

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autoinjector because of the employee's good faith belief that the 575
conditions of divisions (A)(1) and (2) of this section had been 576
satisfied. Furthermore, when a school district is required by this 577
section to permit a student to possess and use an inhaler or 578
autoinjector because the conditions of divisions (A)(1) and (2) of 579
this section have been satisfied, the school district, any member 580
of the school district board of education, or any school district 581
employee is not liable in damages in a civil action for injury, 582
death, or loss to person or property allegedly arising from the 583
use of the inhaler or autoinjector by a student for whom it was 584
not prescribed. 585

This section does not eliminate, limit, or reduce any other 586
immunity or defense that a school district, member of a school 587
district board of education, or school district employee may be 588
entitled to under Chapter 2744. or any other provision of the 589
Revised Code or under the common law of this state. 590

(2) A chartered nonpublic school or any officer, director, or 591
employee of the school is not liable in damages in a civil action 592
for injury, death, or loss to person or property allegedly arising 593
from a school employee's prohibiting a student from using an 594
inhaler or autoinjector because of the employee's good faith 595
belief that the conditions of divisions (A)(1) and (2) of this 596
section had not been satisfied. A chartered nonpublic school or 597
any officer, director, or employee of the school is not liable in 598
damages in a civil action for injury, death, or loss to person or 599
property allegedly arising from a school employee's permitting a 600
student to use an inhaler or autoinjector because of the 601
employee's good faith belief that the conditions of divisions 602
(A)(1) and (2) of this section had been satisfied. Furthermore, 603
when a chartered nonpublic school is required by this section to 604
permit a student to possess and use an inhaler or autoinjector 605
because the conditions of divisions (A)(1) and (2) of this section 606

have been satisfied, the chartered nonpublic school or any 607
officer, director, or employee of the school is not liable in 608
damages in a civil action for injury, death, or loss to person or 609
property allegedly arising from the use of the inhaler or 610
autoinjector by a student for whom it was not prescribed. 611

Sec. 3314.03. A copy of every contract entered into under 612
this section shall be filed with the superintendent of public 613
instruction. 614

(A) Each contract entered into between a sponsor and the 615
governing authority of a community school shall specify the 616
following: 617

(1) That the school shall be established as either of the 618
following: 619

(a) A nonprofit corporation established under Chapter 1702. 620
of the Revised Code, if established prior to April 8, 2003; 621

(b) A public benefit corporation established under Chapter 622
1702. of the Revised Code, if established after April 8, 2003; 623

(2) The education program of the school, including the 624
school's mission, the characteristics of the students the school 625
is expected to attract, the ages and grades of students, and the 626
focus of the curriculum; 627

(3) The academic goals to be achieved and the method of 628
measurement that will be used to determine progress toward those 629
goals, which shall include the statewide achievement tests; 630

(4) Performance standards by which the success of the school 631
will be evaluated by the sponsor; 632

(5) The admission standards of section 3314.06 of the Revised 633
Code; 634

(6)(a) Dismissal procedures; 635

(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. Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as required under this division.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(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.

(9) The facilities to be used and their locations;

(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;

(11) That the school will comply with the following requirements:

(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;

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the

school; 666

(c) The school will be nonsectarian in its programs, 667
admission policies, employment practices, and all other 668
operations, and will not be operated by a sectarian school or 669
religious institution; 670

(d) The school will comply with sections 9.90, 9.91, 109.65, 671
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 672
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 673
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 674
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.80, 675
3313.96, 3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 676
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, 677
and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 678
4123., 4141., and 4167. of the Revised Code as if it were a school 679
district and will comply with section 3301.0714 of the Revised 680
Code in the manner specified in section 3314.17 of the Revised 681
Code; 682

(e) The school shall comply with Chapter 102. of the Revised 683
Code except that nothing in that chapter shall prohibit a member 684
of the school's governing board from also being an employee of the 685
school and nothing in that chapter or section 2921.42 of the 686
Revised Code shall prohibit a member of the school's governing 687
board from having an interest in a contract into which the 688
governing board enters that is not a contract with a for-profit 689
firm for the operation or management of a school under the 690
auspices of the governing authority; 691

(f) The school will comply with sections 3313.61, 3313.611, 692
and 3313.614 of the Revised Code, except that the requirement in 693
sections 3313.61 and 3313.611 of the Revised Code that a person 694
must successfully complete the curriculum in any high school prior 695
to receiving a high school diploma may be met by completing the 696

curriculum adopted by the governing authority of the community 697
school rather than the curriculum specified in Title XXXIII of the 698
Revised Code or any rules of the state board of education; 699

(g) The school governing authority will submit within four 700
months after the end of each school year a report of its 701
activities and progress in meeting the goals and standards of 702
divisions (A)(3) and (4) of this section and its financial status 703
to the sponsor, the parents of all students enrolled in the 704
school, and the legislative office of education oversight. The 705
school will collect and provide any data that the legislative 706
office of education oversight requests in furtherance of any study 707
or research that the general assembly requires the office to 708
conduct, including the studies required under Section 50.39 of Am. 709
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 710
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 711

(12) Arrangements for providing health and other benefits to 712
employees; 713

(13) The length of the contract, which shall begin at the 714
beginning of an academic year. No contract shall exceed five years 715
unless such contract has been renewed pursuant to division (E) of 716
this section. 717

(14) The governing authority of the school, which shall be 718
responsible for carrying out the provisions of the contract; 719

(15) A financial plan detailing an estimated school budget 720
for each year of the period of the contract and specifying the 721
total estimated per pupil expenditure amount for each such year. 722
The plan shall specify for each year the base formula amount that 723
will be used for purposes of funding calculations under section 724
3314.08 of the Revised Code. This base formula amount for any year 725
shall not exceed the formula amount defined under section 3317.02 726
of the Revised Code. The plan may also specify for any year a 727

percentage figure to be used for reducing the per pupil amount of 728
disadvantaged pupil impact aid calculated pursuant to section 729
3317.029 of the Revised Code the school is to receive that year 730
under section 3314.08 of the Revised Code. 731

(16) Requirements and procedures regarding the disposition of 732
employees of the school in the event the contract is terminated or 733
not renewed pursuant to section 3314.07 of the Revised Code; 734

(17) Whether the school is to be created by converting all or 735
part of an existing public school or is to be a new start-up 736
school, and if it is a converted public school, specification of 737
any duties or responsibilities of an employer that the board of 738
education that operated the school before conversion is delegating 739
to the governing board of the community school with respect to all 740
or any specified group of employees provided the delegation is not 741
prohibited by a collective bargaining agreement applicable to such 742
employees; 743

(18) Provisions establishing procedures for resolving 744
disputes or differences of opinion between the sponsor and the 745
governing authority of the community school; 746

(19) A provision requiring the governing authority to adopt a 747
policy regarding the admission of students who reside outside the 748
district in which the school is located. That policy shall comply 749
with the admissions procedures specified in section 3314.06 of the 750
Revised Code and, at the sole discretion of the authority, shall 751
do one of the following: 752

(a) Prohibit the enrollment of students who reside outside 753
the district in which the school is located; 754

(b) Permit the enrollment of students who reside in districts 755
adjacent to the district in which the school is located; 756

(c) Permit the enrollment of students who reside in any other 757

district in the state. 758

(20) A provision recognizing the authority of the department 759
of education to take over the sponsorship of the school in 760
accordance with the provisions of division (C) of section 3314.015 761
of the Revised Code; 762

(21) A provision recognizing the sponsor's authority to 763
assume the operation of a school under the conditions specified in 764
division (B) of section 3314.073 of the Revised Code; 765

(22) A provision recognizing both of the following: 766

(a) The authority of public health and safety officials to 767
inspect the facilities of the school and to order the facilities 768
closed if those officials find that the facilities are not in 769
compliance with health and safety laws and regulations; 770

(b) The authority of the department of education as the 771
community school oversight body to suspend the operation of the 772
school under section 3314.072 of the Revised Code if the 773
department has evidence of conditions or violations of law at the 774
school that pose an imminent danger to the health and safety of 775
the school's students and employees and the sponsor refuses to 776
take such action; 777

(23) A description of the learning opportunities that will be 778
offered to students including both classroom-based and 779
non-classroom-based learning opportunities that is in compliance 780
with criteria for student participation established by the 781
department under division (L)(2) of section 3314.08 of the Revised 782
Code; 783

(24) The school will comply with section 3302.04 of the 784
Revised Code, including division (E) of that section to the extent 785
possible, except that any action required to be taken by a school 786
district pursuant to that section shall be taken by the sponsor of 787

the school. However, the sponsor shall not be required to take any
action described in division (F) of that section.

(B) The community school shall also submit to the sponsor a
comprehensive plan for the school. The plan shall specify the
following:

(1) The process by which the governing authority of the
school will be selected in the future;

(2) The management and administration of the school;

(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;

(4) The instructional program and educational philosophy of
the school;

(5) Internal financial controls.

(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.

(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:

(1) Monitor the community school's compliance with all laws

applicable to the school and with the terms of the contract;	818
(2) Monitor and evaluate the academic and fiscal performance	819
and the organization and operation of the community school on at	820
least an annual basis;	821
(3) Report on an annual basis the results of the evaluation	822
conducted under division (D)(2) of this section to the department	823
of education and to the parents of students enrolled in the	824
community school;	825
(4) Provide technical assistance to the community school in	826
complying with laws applicable to the school and terms of the	827
contract;	828
(5) Take steps to intervene in the school's operation to	829
correct problems in the school's overall performance, declare the	830
school to be on probationary status pursuant to section 3314.073	831
of the Revised Code, suspend the operation of the school pursuant	832
to section 3314.072 of the Revised Code, or terminate the contract	833
of the school pursuant to section 3314.07 of the Revised Code as	834
determined necessary by the sponsor;	835
(6) Have in place a plan of action to be undertaken in the	836
event the community school experiences financial difficulties or	837
closes prior to the end of a school year.	838
(E) Upon the expiration of a contract entered into under this	839
section, the sponsor of a community school may, with the approval	840
of the governing authority of the school, renew that contract for	841
a period of time determined by the sponsor, but not ending earlier	842
than the end of any school year, if the sponsor finds that the	843
school's compliance with applicable laws and terms of the contract	844
and the school's progress in meeting the academic goals prescribed	845
in the contract have been satisfactory. Any contract that is	846
renewed under this division remains subject to the provisions of	847
sections 3314.07, 3314.072, and 3314.073 of the Revised Code.	848

Sec. 3314.141. A community school, community school governing authority, or community school employee is not liable in damages in a civil action for harm allegedly arising from a community school employee's prohibiting a student from using an inhaler or autoinjector described in section 3313.718 of the Revised Code because of the employee's good faith belief that the conditions of divisions (A)(1) and (2) of that section had not been satisfied. A community school, community school governing authority, or community school employee is not liable in damages in a civil action for harm allegedly arising from a community school employee's permitting a student to use an inhaler or autoinjector described in that section because of the employee's good faith belief that the conditions of divisions (A)(1) and (2) of that section had been satisfied. Furthermore, when a community school is required in accordance with that section to permit a student to possess and use an inhaler or autoinjector because the conditions of divisions (A)(1) and (2) of that section have been satisfied, the community school, any member of the community school governing authority, or any community school employee is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from the use of the inhaler or autoinjector by a student for whom it was not prescribed.

This section does not eliminate, limit, or reduce any other immunity or defense that a community school, community school governing authority, or community school employee may be entitled to under Chapter 2744. or any other provision of the Revised Code or under the common law of this state.

Section 2. That existing sections 3313.64 and 3314.03 of the Revised Code are hereby repealed.

Section 3. Section 3314.03 of the Revised Code is presented 879
in this act as a composite of the section as amended by both Am. 880
Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly. 881
The General Assembly, applying the principle stated in division 882
(B) of section 1.52 of the Revised Code that amendments are to be 883
harmonized if reasonably capable of simultaneous operation, finds 884
that the composite is the resulting version of the section in 885
effect prior to the effective date of the section as presented in 886
this act. 887