

As Passed by the Senate

**126th General Assembly
Regular Session
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Sub. S. B. No. 164

**Senators Schuring, Gardner, Stivers, Schuler, Spada, Zurz, Brady, Fedor,
Cates, Padgett, Austria, Clancy, Fingerhut, Grendell, Harris, Kearney,
Niehaus, Wilson, Miller, D., Amstutz, Dann, Prentiss, Miller, R., Hagan,
Goodman**

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A B I L L

To amend sections 3313.64 and 3314.03 and to enact 1
sections 3313.718 and 3314.141 of the Revised Code 2
with respect to use of epinephrine medication in 3
school districts, community schools, and chartered 4
nonpublic schools. 5

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

Section 1. That sections 3313.64 and 3314.03 be amended and 6
sections 3313.718 and 3314.141 of the Revised Code be enacted to 7
read as follows: 8

Sec. 3313.64. (A) As used in this section and in section 9
3313.65 of the Revised Code: 10

(1)(a) Except as provided in division (A)(1)(b) of this 11
section, "parent" means either parent, unless the parents are 12
separated or divorced or their marriage has been dissolved or 13
annulled, in which case "parent" means the parent who is the 14
residential parent and legal custodian of the child. When a child 15
is in the legal custody of a government agency or a person other 16
than the child's natural or adoptive parent, "parent" means the 17

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
purpose.

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(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.

(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.

(5) "Agency" means all of the following:

(a) A public children services agency;

(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;

(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.

(6) A child is placed for adoption if either of the following occurs:

(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.

(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.

(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 not currently enrolled in kindergarten.

(8) "Child," unless otherwise indicated, includes handicapped preschool children. 79
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(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. 81
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(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. 85
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(1) A child shall be admitted to the schools of the school district in which the child's parent resides. 90
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(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: 92
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(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. 96
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(b) The child resides in a home. 99

(c) The child requires special education. 100

(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: 101
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(a) The placement for adoption has been terminated. 107

(b) Another school district is required to admit the child 108

under division (B)(1) of this section. 109

Division (B) of this section does not prohibit the board of 110
education of a school district from placing a handicapped child 111
who resides in the district in a special education program outside 112
of the district or its schools in compliance with Chapter 3323. of 113
the Revised Code. 114

(C) A district shall not charge tuition for children admitted 115
under division (B)(1) or (3) of this section. If the district 116
admits a child under division (B)(2) of this section, tuition 117
shall be paid to the district that admits the child as follows: 118

(1) If the child receives special education in accordance 119
with Chapter 3323. of the Revised Code, tuition shall be paid in 120
accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of 121
the Revised Code regardless of who has custody of the child or 122
whether the child resides in a home. 123

(2) Except as otherwise provided in division (C)(2)(d) of 124
this section, if the child is in the permanent or legal custody of 125
a government agency or person other than the child's parent, 126
tuition shall be paid by: 127

(a) The district in which the child's parent resided at the 128
time the court removed the child from home or at the time the 129
court vested legal or permanent custody of the child in the person 130
or government agency, whichever occurred first; 131

(b) If the parent's residence at the time the court removed 132
the child from home or placed the child in the legal or permanent 133
custody of the person or government agency is unknown, tuition 134
shall be paid by the district in which the child resided at the 135
time the child was removed from home or placed in legal or 136
permanent custody, whichever occurred first; 137

(c) If a school district cannot be established under division 138

(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

supported by such other evidence as the board may require. 201

(4) Any child residing with a person other than the child's 202
parent is entitled, for a period not to exceed twelve months, to 203
attend school in the district in which that person resides if the 204
child's parent files an affidavit with the superintendent of the 205
district in which the person with whom the child is living resides 206
stating all of the following: 207

(a) That the parent is serving outside of the state in the 208
armed services of the United States; 209

(b) That the parent intends to reside in the district upon 210
returning to this state; 211

(c) The name and address of the person with whom the child is 212
living while the parent is outside the state. 213

(5) Any child under the age of twenty-two years who, after 214
the death of a parent, resides in a school district other than the 215
district in which the child attended school at the time of the 216
parent's death is entitled to continue to attend school in the 217
district in which the child attended school at the time of the 218
parent's death for the remainder of the school year, subject to 219
approval of that district board. 220

(6) A child under the age of twenty-two years who resides 221
with a parent who is having a new house built in a school district 222
outside the district where the parent is residing is entitled to 223
attend school for a period of time in the district where the new 224
house is being built. In order to be entitled to such attendance, 225
the parent shall provide the district superintendent with the 226
following: 227

(a) A sworn statement explaining the situation, revealing the 228
location of the house being built, and stating the parent's 229
intention to reside there upon its completion; 230

(b) A statement from the builder confirming that a new house 231
is being built for the parent and that the house is at the 232
location indicated in the parent's statement. 233

(7) A child under the age of twenty-two years residing with a 234
parent who has a contract to purchase a house in a school district 235
outside the district where the parent is residing and who is 236
waiting upon the date of closing of the mortgage loan for the 237
purchase of such house is entitled to attend school for a period 238
of time in the district where the house is being purchased. In 239
order to be entitled to such attendance, the parent shall provide 240
the district superintendent with the following: 241

(a) A sworn statement explaining the situation, revealing the 242
location of the house being purchased, and stating the parent's 243
intent to reside there; 244

(b) A statement from a real estate broker or bank officer 245
confirming that the parent has a contract to purchase the house, 246
that the parent is waiting upon the date of closing of the 247
mortgage loan, and that the house is at the location indicated in 248
the parent's statement. 249

The district superintendent shall establish a period of time 250
not to exceed ninety days during which the child entitled to 251
attend school under division (F)(6) or (7) of this section may 252
attend without tuition obligation. A student attending a school 253
under division (F)(6) or (7) of this section shall be eligible to 254
participate in interscholastic athletics under the auspices of 255
that school, provided the board of education of the school 256
district where the student's parent resides, by a formal action, 257
releases the student to participate in interscholastic athletics 258
at the school where the student is attending, and provided the 259
student receives any authorization required by a public agency or 260
private organization of which the school district is a member 261

exercising authority over interscholastic sports. 262

(8) A child whose parent is a full-time employee of a city, 263
local, or exempted village school district, or of an educational 264
service center, may be admitted to the schools of the district 265
where the child's parent is employed, or in the case of a child 266
whose parent is employed by an educational service center, in the 267
district that serves the location where the parent's job is 268
primarily located, provided the district board of education 269
establishes such an admission policy by resolution adopted by a 270
majority of its members. Any such policy shall take effect on the 271
first day of the school year and the effective date of any 272
amendment or repeal may not be prior to the first day of the 273
subsequent school year. The policy shall be uniformly applied to 274
all such children and shall provide for the admission of any such 275
child upon request of the parent. No child may be admitted under 276
this policy after the first day of classes of any school year. 277

(9) A child who is with the child's parent under the care of 278
a shelter for victims of domestic violence, as defined in section 279
3113.33 of the Revised Code, is entitled to attend school free in 280
the district in which the child is with the child's parent, and no 281
other school district shall be required to pay tuition for the 282
child's attendance in that school district. 283

The enrollment of a child in a school district under this 284
division shall not be denied due to a delay in the school 285
district's receipt of any records required under section 3313.672 286
of the Revised Code or any other records required for enrollment. 287
Any days of attendance and any credits earned by a child while 288
enrolled in a school district under this division shall be 289
transferred to and accepted by any school district in which the 290
child subsequently enrolls. The state board of education shall 291
adopt rules to ensure compliance with this division. 292

(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 325
incur any liability solely because of its receipt of a consent 326
form from a grandparent in lieu of a parent. 327

Division (F)(11) of this section does not create, and shall 328
not be construed as creating, a new cause of action or substantive 329
legal right against a school district, a member of a board of 330
education, or an employee of a school district. This section does 331
not affect, and shall not be construed as affecting, any 332
immunities from defenses to tort liability created or recognized 333
by Chapter 2744. of the Revised Code for a school district, 334
member, or employee. 335

(12) A child under the age of twenty-two years is entitled to 336
attend school in a school district other than the district in 337
which the child is entitled to attend school under division (B), 338
(C), or (E) of this section provided that, prior to such 339
attendance in any school year, both of the following occur: 340

(a) The superintendent of the district in which the child is 341
entitled to attend school under division (B), (C), or (E) of this 342
section contacts the superintendent of another district for 343
purposes of this division; 344

(b) The superintendents of both districts enter into a 345
written agreement that consents to the attendance and specifies 346
that the purpose of such attendance is to protect the student's 347
physical or mental well-being or to deal with other extenuating 348
circumstances deemed appropriate by the superintendents. 349

While an agreement is in effect under this division for a 350
student who is not receiving special education under Chapter 3323. 351
of the Revised Code and notwithstanding Chapter 3327. of the 352
Revised Code, the board of education of neither school district 353
involved in the agreement is required to provide transportation 354
for the student to and from the school where the student attends. 355

A student attending a school of a district pursuant to this 356
division shall be allowed to participate in all student 357
activities, including interscholastic athletics, at the school 358
where the student is attending on the same basis as any student 359
who has always attended the schools of that district while of 360
compulsory school age. 361

(13) All school districts shall comply with the 362
"McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et 363
seq., for the education of homeless children. Each city, local, 364
and exempted village school district shall comply with the 365
requirements of that act governing the provision of a free, 366
appropriate public education, including public preschool, to each 367
homeless child. 368

When a child loses permanent housing and becomes a homeless 369
person, as defined in 42 U.S.C.A. 11481(5), or when a child who is 370
such a homeless person changes temporary living arrangements, the 371
child's parent or guardian shall have the option of enrolling the 372
child in either of the following: 373

(a) The child's school of origin, as defined in 42 U.S.C.A. 374
11432(g)(3)(C); 375

(b) The school that is operated by the school district in 376
which the shelter where the child currently resides is located and 377
that serves the geographic area in which the shelter is located. 378

(14) A child under the age of twenty-two years who resides 379
with a person other than the child's parent is entitled to attend 380
school in the school district in which that person resides if both 381
of the following apply: 382

(a) That person has been appointed, through a military power 383
of attorney executed under section 574(a) of the "National Defense 384
Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 385
U.S.C. 1044b, or through a comparable document necessary to 386

complete a family care plan, as the parent's agent for the care, 387
custody, and control of the child while the parent is on active 388
duty as a member of the national guard or a reserve unit of the 389
armed forces of the United States or because the parent is a 390
member of the armed forces of the United States and is on a duty 391
assignment away from the parent's residence. 392

(b) The military power of attorney or comparable document 393
includes at least the authority to enroll the child in school. 394

The entitlement to attend school in the district in which the 395
parent's agent under the military power of attorney or comparable 396
document resides applies until the end of the school year in which 397
the military power of attorney or comparable document expires. 398

(G) A board of education, after approving admission, may 399
waive tuition for students who will temporarily reside in the 400
district and who are either of the following: 401

(1) Residents or domiciliaries of a foreign nation who 402
request admission as foreign exchange students; 403

(2) Residents or domiciliaries of the United States but not 404
of Ohio who request admission as participants in an exchange 405
program operated by a student exchange organization. 406

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 407
3327.04, and 3327.06 of the Revised Code, a child may attend 408
school or participate in a special education program in a school 409
district other than in the district where the child is entitled to 410
attend school under division (B) of this section. 411

(I)(1) Notwithstanding anything to the contrary in this 412
section or section 3313.65 of the Revised Code, a child under 413
twenty-two years of age may attend school in the school district 414
in which the child, at the end of the first full week of October 415
of the school year, was entitled to attend school as otherwise 416

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 480
a report of the names of each child who attended the district's 481
schools under divisions (C)(2) and (3) of this section or section 482
3313.65 of the Revised Code during the preceding six calendar 483
months, the duration of the attendance of those children, the 484
school district responsible for tuition on behalf of the child, 485
and any other information that the superintendent requires. 486

Upon receipt of the report the superintendent, pursuant to 487
division (F) of section 3317.023 of the Revised Code, shall deduct 488
each district's tuition obligations under divisions (C)(2) and (3) 489
of this section or section 3313.65 of the Revised Code and pay to 490
the district of attendance that amount plus any amount required to 491
be paid by the state. 492

(K) In the event of a disagreement, the superintendent of 493
public instruction shall determine the school district in which 494
the parent resides. 495

(L) Nothing in this section requires or authorizes, or shall 496
be construed to require or authorize, the admission to a public 497
school in this state of a pupil who has been permanently excluded 498
from public school attendance by the superintendent of public 499
instruction pursuant to sections 3301.121 and 3313.662 of the 500
Revised Code. 501

(M) In accordance with division (B)(1) of this section, a 502
child whose parent is a member of the national guard or a reserve 503
unit of the armed forces of the United States and is called to 504
active duty, or a child whose parent is a member of the armed 505
forces of the United States and is ordered to a temporary duty 506
assignment outside of the district, may continue to attend school 507
in the district in which the child's parent lived before being 508
called to active duty or ordered to a temporary duty assignment 509
outside of the district, as long as the child's parent continues 510

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.

Sec. 3313.718. (A) As used in this section, "prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(B) 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 autoinjector to treat anaphylaxis, if all of the following conditions are satisfied:

(1) The student has the written approval of the prescriber of the autoinjector 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 prescriber's written approval shall include at least all of the following information:

(a) The student's name and address;

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

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

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

(e) Acknowledgment that the prescriber has determined that the student is capable of possessing and using the autoinjector appropriately and has provided the student with training in the proper use of the autoinjector;

<u>(f) Circumstances in which the autoinjector should be used;</u>	541
<u>(g) Written instructions that outline procedures school employees should follow in the event that the student is unable to administer the anaphylaxis medication or the medication does not produce the expected relief from the student's anaphylaxis;</u>	542 543 544 545
<u>(h) Any severe adverse reactions that may occur to the child using the autoinjector that should be reported to the prescriber;</u>	546 547
<u>(i) Any severe adverse reactions that may occur to another child, for whom the autoinjector is not prescribed, should such a child receive a dose of the medication;</u>	548 549 550
<u>(j) At least one emergency telephone number for contacting the prescriber in an emergency;</u>	551 552
<u>(k) At least one emergency telephone number for contacting the parent, guardian, or other person having care or charge of the student in an emergency;</u>	553 554 555
<u>(1) Any other special instructions from the prescriber.</u>	556
<u>(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 (B)(1) of this section.</u>	557 558 559 560
<u>(3) The school principal or, if a school nurse is assigned to the student's school building, the school nurse has received a backup dose of the anaphylaxis medication from the parent, guardian, or other person having care or charge of the student or, if the student is not a minor, from the student.</u>	561 562 563 564 565
<u>If these conditions are satisfied, the student may possess and use the autoinjector at school or at any activity, event, or program sponsored by or in which the student's school is a participant.</u>	566 567 568 569
<u>(C) Whenever a student uses an autoinjector at school or at</u>	570

any activity, event, or program sponsored by or in which the 571
student's school is a participant or whenever a school employee 572
administers anaphylaxis medication to a student at such times, a 573
school employee shall immediately request assistance from an 574
emergency medical service provider. 575

(D)(1) A school district, member of a school district board 576
of education, or school district employee is not liable in damages 577
in a civil action for injury, death, or loss to person or property 578
allegedly arising from a district employee's prohibiting a student 579
from using an autoinjector because of the employee's good faith 580
belief that the conditions of division (B) of this section had not 581
been satisfied. A school district, member of a school district 582
board of education, or school district employee is not liable in 583
damages in a civil action for injury, death, or loss to person or 584
property allegedly arising from a district employee's permitting a 585
student to use an autoinjector because of the employee's good 586
faith belief that the conditions of division (B) of this section 587
had been satisfied. Furthermore, when a school district is 588
required by this section to permit a student to possess and use an 589
autoinjector because the conditions of division (B) of this 590
section have been satisfied, the school district, any member of 591
the school district board of education, or any school district 592
employee is not liable in damages in a civil action for injury, 593
death, or loss to person or property allegedly arising from the 594
use of the autoinjector by a student for whom it was not 595
prescribed. 596

This section does not eliminate, limit, or reduce any other 597
immunity or defense that a school district, member of a school 598
district board of education, or school district employee may be 599
entitled to under Chapter 2744. or any other provision of the 600
Revised Code or under the common law of this state. 601

(2) A chartered nonpublic school or any officer, director, or 602

employee of the school is not liable in damages in a civil action 603
for injury, death, or loss to person or property allegedly arising 604
from a school employee's prohibiting a student from using an 605
autoinjector because of the employee's good faith belief that the 606
conditions of division (B) of this section had not been satisfied. 607
A chartered nonpublic school or any officer, director, or employee 608
of the school is not liable in damages in a civil action for 609
injury, death, or loss to person or property allegedly arising 610
from a school employee's permitting a student to use an 611
autoinjector because of the employee's good faith belief that the 612
conditions of division (B) of this section had been satisfied. 613
Furthermore, when a chartered nonpublic school is required by this 614
section to permit a student to possess and use an autoinjector 615
because the conditions of division (B) of this section have been 616
satisfied, the chartered nonpublic school or any officer, 617
director, or employee of the school is not liable in damages in a 618
civil action for injury, death, or loss to person or property 619
allegedly arising from the use of the autoinjector by a student 620
for whom it was not prescribed. 621

Sec. 3314.03. A copy of every contract entered into under 622
this section shall be filed with the superintendent of public 623
instruction. 624

(A) Each contract entered into between a sponsor and the 625
governing authority of a community school shall specify the 626
following: 627

(1) That the school shall be established as either of the 628
following: 629

(a) A nonprofit corporation established under Chapter 1702. 630
of the Revised Code, if established prior to April 8, 2003; 631

(b) A public benefit corporation established under Chapter 632

1702. of the Revised Code, if established after April 8, 2003; 633

(2) The education program of the school, including the 634
school's mission, the characteristics of the students the school 635
is expected to attract, the ages and grades of students, and the 636
focus of the curriculum; 637

(3) The academic goals to be achieved and the method of 638
measurement that will be used to determine progress toward those 639
goals, which shall include the statewide achievement tests; 640

(4) Performance standards by which the success of the school 641
will be evaluated by the sponsor. If the sponsor will evaluate the 642
school in accordance with division (D) of section 3314.36 of the 643
Revised Code, the contract shall specify the number of school 644
years that the school will be evaluated under that division. 645

(5) The admission standards of section 3314.06 of the Revised 646
Code and, if applicable, section 3314.061 of the Revised Code; 647

(6)(a) Dismissal procedures; 648

(b) A requirement that the governing authority adopt an 649
attendance policy that includes a procedure for automatically 650
withdrawing a student from the school if the student without a 651
legitimate excuse fails to participate in one hundred five 652
consecutive hours of the learning opportunities offered to the 653
student. 654

(7) The ways by which the school will achieve racial and 655
ethnic balance reflective of the community it serves; 656

(8) Requirements for financial audits by the auditor of 657
state. The contract shall require financial records of the school 658
to be maintained in the same manner as are financial records of 659
school districts, pursuant to rules of the auditor of state, and 660
the audits shall be conducted in accordance with section 117.10 of 661
the Revised Code. 662

- (9) The facilities to be used and their locations; 663
- (10) Qualifications of teachers, including a requirement that 664
the school's classroom teachers be licensed in accordance with 665
sections 3319.22 to 3319.31 of the Revised Code, except that a 666
community school may engage noncertificated persons to teach up to 667
twelve hours per week pursuant to section 3319.301 of the Revised 668
Code; 669
- (11) That the school will comply with the following 670
requirements: 671
- (a) The school will provide learning opportunities to a 672
minimum of twenty-five students for a minimum of nine hundred 673
twenty hours per school year; 674
- (b) The governing authority will purchase liability 675
insurance, or otherwise provide for the potential liability of the 676
school; 677
- (c) The school will be nonsectarian in its programs, 678
admission policies, employment practices, and all other 679
operations, and will not be operated by a sectarian school or 680
religious institution; 681
- (d) The school will comply with sections 9.90, 9.91, 109.65, 682
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 683
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 684
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 685
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.80, 686
3313.96, 3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 687
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, 688
and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 689
4123., 4141., and 4167. of the Revised Code as if it were a school 690
district and will comply with section 3301.0714 of the Revised 691
Code in the manner specified in section 3314.17 of the Revised 692
Code; 693

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

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education;

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor, the parents of all students enrolled in the school, and the legislative office of education oversight. The school will collect and provide any data that the legislative office of education oversight requests in furtherance of any study 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.

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

(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.

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

(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.

(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;

(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 education that operated the school before conversion is delegating to the governing board of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving

disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

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

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

(c) Permit the enrollment of students who reside in any other district in the state.

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

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

(22) A provision recognizing both of the following:

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

(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 786
the school's students and employees and the sponsor refuses to 787
take such action; 788

(23) A description of the learning opportunities that will be 789
offered to students including both classroom-based and 790
non-classroom-based learning opportunities that is in compliance 791
with criteria for student participation established by the 792
department under division (L)(2) of section 3314.08 of the Revised 793
Code; 794

(24) The school will comply with section 3302.04 of the 795
Revised Code, including division (E) of that section to the extent 796
possible, except that any action required to be taken by a school 797
district pursuant to that section shall be taken by the sponsor of 798
the school. However, the sponsor shall not be required to take any 799
action described in division (F) of that section. 800

(25) Beginning in the 2006-2007 school year, the school will 801
open for operation not later than the thirtieth day of September 802
each school year, unless the mission of the school as specified 803
under division (A)(2) of this section is solely to serve dropouts. 804
In its initial year of operation, if the school fails to open by 805
the thirtieth day of September, or within one year after the 806
adoption of the contract pursuant to division (D) of section 807
3314.02 of the Revised Code if the mission of the school is solely 808
to serve dropouts, the contract shall be void. 809

(B) The community school shall also submit to the sponsor a 810
comprehensive plan for the school. The plan shall specify the 811
following: 812

(1) The process by which the governing authority of the 813
school will be selected in the future; 814

(2) The management and administration of the school; 815

(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;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(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;

(4) Provide technical assistance to the community school in 846
complying with laws applicable to the school and terms of the 847
contract; 848

(5) Take steps to intervene in the school's operation to 849
correct problems in the school's overall performance, declare the 850
school to be on probationary status pursuant to section 3314.073 851
of the Revised Code, suspend the operation of the school pursuant 852
to section 3314.072 of the Revised Code, or terminate the contract 853
of the school pursuant to section 3314.07 of the Revised Code as 854
determined necessary by the sponsor; 855

(6) Have in place a plan of action to be undertaken in the 856
event the community school experiences financial difficulties or 857
closes prior to the end of a school year. 858

(E) Upon the expiration of a contract entered into under this 859
section, the sponsor of a community school may, with the approval 860
of the governing authority of the school, renew that contract for 861
a period of time determined by the sponsor, but not ending earlier 862
than the end of any school year, if the sponsor finds that the 863
school's compliance with applicable laws and terms of the contract 864
and the school's progress in meeting the academic goals prescribed 865
in the contract have been satisfactory. Any contract that is 866
renewed under this division remains subject to the provisions of 867
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 868

(F) If a community school fails to open for operation within 869
one year after the contract entered into under this section is 870
adopted pursuant to division (D) of section 3314.02 of the Revised 871
Code or permanently closes prior to the expiration of the 872
contract, the contract shall be void and the school shall not 873
enter into a contract with any other sponsor. A school shall not 874
be considered permanently closed because the operations of the 875
school have been suspended pursuant to section 3314.072 of the 876

Revised Code. Any contract that becomes void under this division 877
shall not count toward any statewide limit on the number of such 878
contracts prescribed by section 3314.013 of the Revised Code. 879

Sec. 3314.141. A community school, community school governing 880
authority, or community school employee is not liable in damages 881
in a civil action for harm allegedly arising from a community 882
school employee's prohibiting a student from using an autoinjector 883
described in section 3313.718 of the Revised Code because of the 884
employee's good faith belief that the conditions of division (B) 885
of that section had not been satisfied. A community school, 886
community school governing authority, or community school employee 887
is not liable in damages in a civil action for harm allegedly 888
arising from a community school employee's permitting a student to 889
use an autoinjector described in that section because of the 890
employee's good faith belief that the conditions of division (B) 891
of that section had been satisfied. Furthermore, when a community 892
school is required in accordance with that section to permit a 893
student to possess and use an autoinjector because the conditions 894
of division (B) of that section have been satisfied, the community 895
school, any member of the community school governing authority, or 896
any community school employee is not liable in damages in a civil 897
action for injury, death, or loss to person or property allegedly 898
arising from the use of the autoinjector by a student for whom it 899
was not prescribed. 900

This section does not eliminate, limit, or reduce any other 901
immunity or defense that a community school, community school 902
governing authority, or community school employee may be entitled 903
to under Chapter 2744. or any other provision of the Revised Code 904
or under the common law of this state. 905

Section 2. That existing sections 3313.64 and 3314.03 of the 906
Revised Code are hereby repealed. 907