

**As Reported by the House Health Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**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**

**Representatives Reidelbach, McGregor, R., Flowers, Schneider, Combs,  
Faber, Webster, White, J., Hoops, Harwood, Brown**

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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  
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,

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certified, or approved by the state to operate the home for such  
purpose. 47  
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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. 49  
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(d) The home is a children's home created under section  
5153.21 or 5153.36 of the Revised Code. 52  
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(5) "Agency" means all of the following: 54

(a) A public children services agency; 55

(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; 56  
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(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. 62  
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(6) A child is placed for adoption if either of the following  
occurs: 65  
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(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. 67  
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(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. 71  
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(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 74  
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age, as defined in section 3321.01 of the Revised Code, and who is 77  
not currently enrolled in kindergarten. 78

(8) "Child," unless otherwise indicated, includes handicapped 79  
preschool children. 80

(9) "Active duty" means active duty pursuant to an executive 81  
order of the president of the United States, an act of the 82  
congress of the United States, or section 5919.29 or 5923.21 of 83  
the Revised Code. 84

(B) Except as otherwise provided in section 3321.01 of the 85  
Revised Code for admittance to kindergarten and first grade, a 86  
child who is at least five but under twenty-two years of age and 87  
any handicapped preschool child shall be admitted to school as 88  
provided in this division. 89

(1) A child shall be admitted to the schools of the school 90  
district in which the child's parent resides. 91

(2) A child who does not reside in the district where the 92  
child's parent resides shall be admitted to the schools of the 93  
district in which the child resides if any of the following 94  
applies: 95

(a) The child is in the legal or permanent custody of a 96  
government agency or a person other than the child's natural or 97  
adoptive parent. 98

(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 101  
section to be admitted to the schools of the district where the 102  
child resides and who is residing with a resident of this state 103  
with whom the child has been placed for adoption shall be admitted 104  
to the schools of the district where the child resides unless 105  
either of the following applies: 106

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| (a) The placement for adoption has been terminated.   | 107                             |
| (b) Another school district is required to admit the child under division (B)(1) of this section.   | 108<br>109                      |
| Division (B) of this section does not prohibit the board of education of a school district from placing a handicapped child who resides in the district in a special education program outside of the district or its schools in compliance with Chapter 3323. of the Revised Code.                                     | 110<br>111<br>112<br>113<br>114 |
| (C) A district shall not charge tuition for children admitted under division (B)(1) or (3) of this section. If the district admits a child under division (B)(2) of this section, tuition shall be paid to the district that admits the child as follows:   | 115<br>116<br>117<br>118        |
| (1) If the child receives special education in accordance with Chapter 3323. of the Revised Code, tuition shall be paid in accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code regardless of who has custody of the child or whether the child resides in a home.                       | 119<br>120<br>121<br>122<br>123 |
| (2) Except as otherwise provided in division (C)(2)(d) of this section, if the child is in the permanent or legal custody of a government agency or person other than the child's parent, tuition shall be paid by:   | 124<br>125<br>126<br>127        |
| (a) The district in which the child's parent resided at the time the court removed the child from home or at the time the court vested legal or permanent custody of the child in the person or government agency, whichever occurred first;  | 128<br>129<br>130<br>131        |
| (b) If the parent's residence at the time the court removed the child from home or placed the child in the legal or permanent custody of the person or government agency is unknown, tuition shall be paid by the district in which the child resided at the time the child was removed from home or placed in legal or | 132<br>133<br>134<br>135<br>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 139  
district determined as required by section 2151.357 of the Revised 140  
Code by the court at the time it vests custody of the child in the 141  
person or government agency; 142

(d) If at the time the court removed the child from home or 143  
vested legal or permanent custody of the child in the person or 144  
government agency, whichever occurred first, one parent was in a 145  
residential or correctional facility or a juvenile residential 146  
placement and the other parent, if living and not in such a 147  
facility or placement, was not known to reside in this state, 148  
tuition shall be paid by the district determined under division 149  
(D) of section 3313.65 of the Revised Code as the district 150  
required to pay any tuition while the parent was in such facility 151  
or placement. 152

(3) If the child is not in the permanent or legal custody of 153  
a government agency or person other than the child's parent and 154  
the child resides in a home, tuition shall be paid by one of the 155  
following: 156

(a) The school district in which the child's parent resides; 157

(b) If the child's parent is not a resident of this state, 158  
the home in which the child resides. 159

(D) Tuition required to be paid under divisions (C)(2) and 160  
(3)(a) of this section shall be computed in accordance with 161  
section 3317.08 of the Revised Code. Tuition required to be paid 162  
under division (C)(3)(b) of this section shall be computed in 163  
accordance with section 3317.081 of the Revised Code. If a home 164  
fails to pay the tuition required by division (C)(3)(b) of this 165  
section, the board of education providing the education may 166  
recover in a civil action the tuition and the expenses incurred in 167

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.

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

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

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

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

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

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

(a) A sworn statement explaining the situation, revealing the



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| 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 293  
has moved out of the school district after the commencement of 294  
classes in the child's senior year of high school is entitled, 295  
subject to the approval of that district board, to attend school 296  
in the district in which the child attended school at the time of 297  
the parental move for the remainder of the school year and for one 298  
additional semester or equivalent term. A district board may also 299  
adopt a policy specifying extenuating circumstances under which a 300  
student may continue to attend school under division (F)(10) of 301  
this section for an additional period of time in order to 302  
successfully complete the high school curriculum for the 303  
individualized education program developed for the student by the 304  
high school pursuant to section 3323.08 of the Revised Code. 305

(11) As used in this division, "grandparent" means a parent 306  
of a parent of a child. A child under the age of twenty-two years 307  
who is in the custody of the child's parent, resides with a 308  
grandparent, and does not require special education is entitled to 309  
attend the schools of the district in which the child's 310  
grandparent resides, provided that, prior to such attendance in 311  
any school year, the board of education of the school district in 312  
which the child's grandparent resides and the board of education 313  
of the school district in which the child's parent resides enter 314  
into a written agreement specifying that good cause exists for 315  
such attendance, describing the nature of this good cause, and 316  
consenting to such attendance. 317

In lieu of a consent form signed by a parent, a board of 318  
education may request the grandparent of a child attending school 319  
in the district in which the grandparent resides pursuant to 320  
division (F)(11) of this section to complete any consent form 321  
required by the district, including any authorization required by 322  
sections 3313.712, 3313.713, ~~and~~ 3313.716, and 3313.718 of the 323

Revised Code. Upon request, the grandparent shall complete any consent form required by the district. A school district shall not incur any liability solely because of its receipt of a consent form from a grandparent in lieu of a parent.

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

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

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

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

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

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 417  
Code, if at that time the child was enrolled in the schools of the 418  
district but since that time the child or the child's parent has 419  
relocated to a new address located outside of that school district 420  
and within the same county as the child's or parent's address 421  
immediately prior to the relocation. The child may continue to 422  
attend school in the district, and at the school to which the 423  
child was assigned at the end of the first full week of October of 424  
the current school year, for the balance of the school year. 425  
Division (I)(1) of this section applies only if both of the 426  
following conditions are satisfied: 427

(a) The board of education of the school district in which 428  
the child was entitled to attend school at the end of the first 429  
full week in October and of the district to which the child or 430  
child's parent has relocated each has adopted a policy to enroll 431  
children described in division (I)(1) of this section. 432

(b) The child's parent provides written notification of the 433  
relocation outside of the school district to the superintendent of 434  
each of the two school districts. 435

(2) At the beginning of the school year following the school 436  
year in which the child or the child's parent relocated outside of 437  
the school district as described in division (I)(1) of this 438  
section, the child is not entitled to attend school in the school 439  
district under that division. 440

(3) Any person or entity owing tuition to the school district 441  
on behalf of the child at the end of the first full week in 442  
October, as provided in division (C) of this section, shall 443  
continue to owe such tuition to the district for the child's 444  
attendance under division (I)(1) of this section for the lesser of 445

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.

(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.

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

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 478  
treasurer of each school district shall, by the fifteenth day of 479  
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 511  
child lives as a result of the parent's active duty status or 512  
temporary duty assignment. However, the district is not 513  
responsible for providing transportation for the child if the 514  
child lives outside of the district as a result of the parent's 515  
active duty status or temporary duty assignment. 516

Sec. 3313.718. (A) As used in this section, "prescriber" has 517  
the same meaning as in section 4729.01 of the Revised Code. 518

(B) Notwithstanding section 3313.713 of the Revised Code or 519  
any policy adopted under that section, a student of a school 520  
operated by a city, local, exempted village, or joint vocational 521  
school district or a student of a chartered nonpublic school may 522  
possess and use an epinephrine autoinjector to treat anaphylaxis, 523  
if all of the following conditions are satisfied: 524

(1) The student has the written approval of the prescriber of 525  
the autoinjector and, if the student is a minor, the written 526  
approval of the parent, guardian, or other person having care or 527  
charge of the student. The prescriber's written approval shall 528  
include at least all of the following information: 529

(a) The student's name and address; 530

(b) The names and dose of the medication contained in the 531  
autoinjector; 532

(c) The date the administration of the medication is to 533  
begin; 534

(d) The date, if known, that the administration of the 535  
medication is to cease; 536

(e) Acknowledgment that the prescriber has determined that 537  
the student is capable of possessing and using the autoinjector 538

appropriately and has provided the student with training in the 539  
proper use of the autoinjector; 540

(f) Circumstances in which the autoinjector should be used; 541

(g) Written instructions that outline procedures school 542  
employees should follow in the event that the student is unable to 543  
administer the anaphylaxis medication or the medication does not 544  
produce the expected relief from the student's anaphylaxis; 545

(h) Any severe adverse reactions that may occur to the child 546  
using the autoinjector that should be reported to the prescriber; 547

(i) Any severe adverse reactions that may occur to another 548  
child, for whom the autoinjector is not prescribed, should such a 549  
child receive a dose of the medication; 550

(j) At least one emergency telephone number for contacting 551  
the prescriber in an emergency; 552

(k) At least one emergency telephone number for contacting 553  
the parent, guardian, or other person having care or charge of the 554  
student in an emergency; 555

(l) Any other special instructions from the prescriber. 556

(2) The school principal and, if a school nurse is assigned 557  
to the student's school building, the school nurse has received 558  
copies of the written approvals required by division (B)(1) of 559  
this section. 560

(3) The school principal or, if a school nurse is assigned to 561  
the student's school building, the school nurse has received a 562  
backup dose of the anaphylaxis medication from the parent, 563  
guardian, or other person having care or charge of the student or, 564  
if the student is not a minor, from the student. 565

If these conditions are satisfied, the student may possess 566  
and use the autoinjector at school or at any activity, event, or 567  
program sponsored by or in which the student's school is a 568

participant.

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(C) Whenever a student uses an autoinjector at school or at any activity, event, or program sponsored by or in which the student's school is a participant or whenever a school employee administers anaphylaxis medication to a student at such times, a school employee shall immediately request assistance from an emergency medical service provider.

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(D)(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 autoinjector because of the employee's good faith belief that the conditions of division (B) 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 autoinjector because of the employee's good faith belief that the conditions of division (B) of this section had been satisfied. Furthermore, when a school district is required by this section to permit a student to possess and use an autoinjector because the conditions of division (B) of this section have been satisfied, the school district, any member of the school district board of education, or any school district 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 autoinjector by a student for whom it was not prescribed.

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This section does not eliminate, limit, or reduce any other immunity or defense that a school district, member of a school district board of education, or school district employee may be entitled to under Chapter 2744. or any other provision of the

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Revised Code or under the common law of this state.

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(2) A chartered nonpublic school or any officer, director, or employee of the school is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from a school employee's prohibiting a student from using an autoinjector because of the employee's good faith belief that the conditions of division (B) of this section had not been satisfied.

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A chartered nonpublic school or any officer, director, or employee of the school is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from a school employee's permitting a student to use an autoinjector because of the employee's good faith belief that the conditions of division (B) of this section had been satisfied.

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Furthermore, when a chartered nonpublic school is required by this section to permit a student to possess and use an autoinjector because the conditions of division (B) of this section have been satisfied, the chartered nonpublic school or any officer, director, or employee of the school 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 autoinjector by a student for whom it was not prescribed.

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

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

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

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(a) A nonprofit corporation established under Chapter 1702.

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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  
the Revised Code.

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

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(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;

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

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(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;

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

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

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(d) The school will comply with sections 9.90, 9.91, 109.65,  
121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711,  
3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643,  
3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671,  
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.80,  
3313.96, 3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14,  
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52,  
and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112.,  
4123., 4141., and 4167. of the Revised Code as if it were a school

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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 694  
Code except that nothing in that chapter shall prohibit a member 695  
of the school's governing board from also being an employee of the 696  
school and nothing in that chapter or section 2921.42 of the 697  
Revised Code shall prohibit a member of the school's governing 698  
board from having an interest in a contract into which the 699  
governing board enters that is not a contract with a for-profit 700  
firm for the operation or management of a school under the 701  
auspices of the governing authority; 702

(f) The school will comply with sections 3313.61, 3313.611, 703  
and 3313.614 of the Revised Code, except that the requirement in 704  
sections 3313.61 and 3313.611 of the Revised Code that a person 705  
must successfully complete the curriculum in any high school prior 706  
to receiving a high school diploma may be met by completing the 707  
curriculum adopted by the governing authority of the community 708  
school rather than the curriculum specified in Title XXXIII of the 709  
Revised Code or any rules of the state board of education; 710

(g) The school governing authority will submit within four 711  
months after the end of each school year a report of its 712  
activities and progress in meeting the goals and standards of 713  
divisions (A)(3) and (4) of this section and its financial status 714  
to the sponsor, the parents of all students enrolled in the 715  
school, and the legislative office of education oversight. The 716  
school will collect and provide any data that the legislative 717  
office of education oversight requests in furtherance of any study 718  
or research that the general assembly requires the office to 719  
conduct, including the studies required under Section 50.39 of Am. 720  
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 721  
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 722



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| (12) Arrangements for providing health and other benefits to employees;   | 723<br>724   |
| (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.  | 725<br>726<br>727<br>728   |
| (14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;   | 729<br>730   |
| (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. | 731<br>732<br>733<br>734<br>735<br>736<br>737<br>738<br>739<br>740<br>741<br>742 |
| (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;   | 743<br>744<br>745  |
| (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   | 746<br>747<br>748<br>749<br>750<br>751<br>752<br>753                             |

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| employees;   | 754                                    |
| (18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;  | 755<br>756<br>757                      |
| (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: | 758<br>759<br>760<br>761<br>762<br>763 |
| (a) Prohibit the enrollment of students who reside outside the district in which the school is located;  | 764<br>765                             |
| (b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;   | 766<br>767                             |
| (c) Permit the enrollment of students who reside in any other district in the state.   | 768<br>769                             |
| (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;  | 770<br>771<br>772<br>773               |
| (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;   | 774<br>775<br>776                      |
| (22) A provision recognizing both of the following:  | 777                                    |
| (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;  | 778<br>779<br>780<br>781               |
| (b) The authority of the department of education as the community school oversight body to suspend the operation of the  | 782<br>783                             |

school under section 3314.072 of the Revised Code if the 784  
department has evidence of conditions or violations of law at the 785  
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

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| (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;  | 816<br>817<br>818<br>819                                    |
| (4) The instructional program and educational philosophy of the school;  | 820<br>821  |
| (5) Internal financial controls.   | 822   |
| (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. | 823<br>824<br>825<br>826<br>827<br>828<br>829<br>830<br>831 |
| (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:   | 832<br>833<br>834<br>835<br>836                             |
| (1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;   | 837<br>838  |
| (2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;   | 839<br>840<br>841   |
| (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  | 842<br>843<br>844   |

community school; 845

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

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 autoinjector described in section 3313.718 of the Revised Code because of the employee's good faith belief that the conditions of division (B) 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 autoinjector described in that section because of the employee's good faith belief that the conditions of division (B) 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 autoinjector because the conditions of division (B) 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 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.

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