

**As Introduced**

**128th General Assembly  
Regular Session  
2009-2010**

**S. B. No. 261**

**Senator Cates**

—

**A B I L L**

To amend sections 109.57, 3313.61, 3317.03, 3319.31, 1  
3319.311, and 4117.01 and to enact sections 2  
3328.01 to 3328.04, 3328.11 to 3328.15, 3328.17 to 3  
3328.19, 3328.191, 3328.192, 3328.193, 3328.20 to 4  
3328.26, 3328.31 to 3328.36, 3328.41, 3328.45, 5  
3328.50, and 3328.99 of the Revised Code to permit 6  
the establishment of public college-preparatory 7  
boarding schools for at-risk students to be 8  
operated by private nonprofit entities. 9

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

**Section 1.** That sections 109.57, 3313.61, 3317.03, 3319.31, 10  
3319.311, and 4117.01 be amended and sections 3328.01, 3328.02, 11  
3328.03, 3328.04, 3328.11, 3328.12, 3328.13, 3328.14, 3328.15, 12  
3328.17, 3328.18, 3328.19, 3328.191, 3328.192, 3328.193, 3328.20, 13  
3328.21, 3328.22, 3328.23, 3328.24, 3328.25, 3328.26, 3328.31, 14  
3328.32, 3328.33, 3328.34, 3328.35, 3328.36, 3328.41, 3328.45, 15  
3328.50, and 3328.99 of the Revised Code be enacted to read as 16  
follows: 17

**Sec. 109.57.** (A)(1) The superintendent of the bureau of 18  
criminal identification and investigation shall procure from 19  
wherever procurable and file for record photographs, pictures, 20

descriptions, fingerprints, measurements, and other information 21  
that may be pertinent of all persons who have been convicted of 22  
committing within this state a felony, any crime constituting a 23  
misdemeanor on the first offense and a felony on subsequent 24  
offenses, or any misdemeanor described in division (A)(1)(a), 25  
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 26  
of all children under eighteen years of age who have been 27  
adjudicated delinquent children for committing within this state 28  
an act that would be a felony or an offense of violence if 29  
committed by an adult or who have been convicted of or pleaded 30  
guilty to committing within this state a felony or an offense of 31  
violence, and of all well-known and habitual criminals. The person 32  
in charge of any county, multicounty, municipal, municipal-county, 33  
or multicounty-municipal jail or workhouse, community-based 34  
correctional facility, halfway house, alternative residential 35  
facility, or state correctional institution and the person in 36  
charge of any state institution having custody of a person 37  
suspected of having committed a felony, any crime constituting a 38  
misdemeanor on the first offense and a felony on subsequent 39  
offenses, or any misdemeanor described in division (A)(1)(a), 40  
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 41  
having custody of a child under eighteen years of age with respect 42  
to whom there is probable cause to believe that the child may have 43  
committed an act that would be a felony or an offense of violence 44  
if committed by an adult shall furnish such material to the 45  
superintendent of the bureau. Fingerprints, photographs, or other 46  
descriptive information of a child who is under eighteen years of 47  
age, has not been arrested or otherwise taken into custody for 48  
committing an act that would be a felony or an offense of violence 49  
who is not in any other category of child specified in this 50  
division, if committed by an adult, has not been adjudicated a 51  
delinquent child for committing an act that would be a felony or 52  
an offense of violence if committed by an adult, has not been 53

convicted of or pleaded guilty to committing a felony or an 54  
offense of violence, and is not a child with respect to whom there 55  
is probable cause to believe that the child may have committed an 56  
act that would be a felony or an offense of violence if committed 57  
by an adult shall not be procured by the superintendent or 58  
furnished by any person in charge of any county, multicounty, 59  
municipal, municipal-county, or multicounty-municipal jail or 60  
workhouse, community-based correctional facility, halfway house, 61  
alternative residential facility, or state correctional 62  
institution, except as authorized in section 2151.313 of the 63  
Revised Code. 64

(2) Every clerk of a court of record in this state, other 65  
than the supreme court or a court of appeals, shall send to the 66  
superintendent of the bureau a weekly report containing a summary 67  
of each case involving a felony, involving any crime constituting 68  
a misdemeanor on the first offense and a felony on subsequent 69  
offenses, involving a misdemeanor described in division (A)(1)(a), 70  
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 71  
or involving an adjudication in a case in which a child under 72  
eighteen years of age was alleged to be a delinquent child for 73  
committing an act that would be a felony or an offense of violence 74  
if committed by an adult. The clerk of the court of common pleas 75  
shall include in the report and summary the clerk sends under this 76  
division all information described in divisions (A)(2)(a) to (f) 77  
of this section regarding a case before the court of appeals that 78  
is served by that clerk. The summary shall be written on the 79  
standard forms furnished by the superintendent pursuant to 80  
division (B) of this section and shall include the following 81  
information: 82

(a) The incident tracking number contained on the standard 83  
forms furnished by the superintendent pursuant to division (B) of 84  
this section; 85

(b) The style and number of the case;	86
(c) The date of arrest, offense, summons, or arraignment;	87
(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;	88 89 90 91 92 93 94 95 96 97 98 99
(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;	100 101
(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.	102 103 104 105
If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.	106 107 108 109 110
(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime constituting a misdemeanor on the first offense and a felony on	111 112 113 114 115 116

subsequent offenses, or a misdemeanor described in division 117  
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 118  
Revised Code and of all children under eighteen years of age 119  
arrested or otherwise taken into custody for committing an act 120  
that would be a felony or an offense of violence if committed by 121  
an adult. The superintendent also shall file for record the 122  
fingerprint impressions of all persons confined in a county, 123  
multicounty, municipal, municipal-county, or multicounty-municipal 124  
jail or workhouse, community-based correctional facility, halfway 125  
house, alternative residential facility, or state correctional 126  
institution for the violation of state laws and of all children 127  
under eighteen years of age who are confined in a county, 128  
multicounty, municipal, municipal-county, or multicounty-municipal 129  
jail or workhouse, community-based correctional facility, halfway 130  
house, alternative residential facility, or state correctional 131  
institution or in any facility for delinquent children for 132  
committing an act that would be a felony or an offense of violence 133  
if committed by an adult, and any other information that the 134  
superintendent may receive from law enforcement officials of the 135  
state and its political subdivisions. 136

(4) The superintendent shall carry out Chapter 2950. of the 137  
Revised Code with respect to the registration of persons who are 138  
convicted of or plead guilty to a sexually oriented offense or a 139  
child-victim oriented offense and with respect to all other duties 140  
imposed on the bureau under that chapter. 141

(5) The bureau shall perform centralized recordkeeping 142  
functions for criminal history records and services in this state 143  
for purposes of the national crime prevention and privacy compact 144  
set forth in section 109.571 of the Revised Code and is the 145  
criminal history record repository as defined in that section for 146  
purposes of that compact. The superintendent or the 147  
superintendent's designee is the compact officer for purposes of 148

that compact and shall carry out the responsibilities of the 149  
compact officer specified in that compact. 150

(B) The superintendent shall prepare and furnish to every 151  
county, multicounty, municipal, municipal-county, or 152  
multicounty-municipal jail or workhouse, community-based 153  
correctional facility, halfway house, alternative residential 154  
facility, or state correctional institution and to every clerk of 155  
a court in this state specified in division (A)(2) of this section 156  
standard forms for reporting the information required under 157  
division (A) of this section. The standard forms that the 158  
superintendent prepares pursuant to this division may be in a 159  
tangible format, in an electronic format, or in both tangible 160  
formats and electronic formats. 161

(C)(1) The superintendent may operate a center for 162  
electronic, automated, or other data processing for the storage 163  
and retrieval of information, data, and statistics pertaining to 164  
criminals and to children under eighteen years of age who are 165  
adjudicated delinquent children for committing an act that would 166  
be a felony or an offense of violence if committed by an adult, 167  
criminal activity, crime prevention, law enforcement, and criminal 168  
justice, and may establish and operate a statewide communications 169  
network to gather and disseminate information, data, and 170  
statistics for the use of law enforcement agencies and for other 171  
uses specified in this division. The superintendent may gather, 172  
store, retrieve, and disseminate information, data, and statistics 173  
that pertain to children who are under eighteen years of age and 174  
that are gathered pursuant to sections 109.57 to 109.61 of the 175  
Revised Code together with information, data, and statistics that 176  
pertain to adults and that are gathered pursuant to those 177  
sections. 178

(2) The superintendent or the superintendent's designee shall 179  
gather information of the nature described in division (C)(1) of 180

this section that pertains to the offense and delinquency history 181  
of a person who has been convicted of, pleaded guilty to, or been 182  
adjudicated a delinquent child for committing a sexually oriented 183  
offense or a child-victim oriented offense for inclusion in the 184  
state registry of sex offenders and child-victim offenders 185  
maintained pursuant to division (A)(1) of section 2950.13 of the 186  
Revised Code and in the internet database operated pursuant to 187  
division (A)(13) of that section and for possible inclusion in the 188  
internet database operated pursuant to division (A)(11) of that 189  
section. 190

(3) In addition to any other authorized use of information, 191  
data, and statistics of the nature described in division (C)(1) of 192  
this section, the superintendent or the superintendent's designee 193  
may provide and exchange the information, data, and statistics 194  
pursuant to the national crime prevention and privacy compact as 195  
described in division (A)(5) of this section. 196

(D) The information and materials furnished to the 197  
superintendent pursuant to division (A) of this section and 198  
information and materials furnished to any board or person under 199  
division (F) or (G) of this section are not public records under 200  
section 149.43 of the Revised Code. The superintendent or the 201  
superintendent's designee shall gather and retain information so 202  
furnished under division (A) of this section that pertains to the 203  
offense and delinquency history of a person who has been convicted 204  
of, pleaded guilty to, or been adjudicated a delinquent child for 205  
committing a sexually oriented offense or a child-victim oriented 206  
offense for the purposes described in division (C)(2) of this 207  
section. 208

(E) The attorney general shall adopt rules, in accordance 209  
with Chapter 119. of the Revised Code, setting forth the procedure 210  
by which a person may receive or release information gathered by 211  
the superintendent pursuant to division (A) of this section. A 212

reasonable fee may be charged for this service. If a temporary 213  
employment service submits a request for a determination of 214  
whether a person the service plans to refer to an employment 215  
position has been convicted of or pleaded guilty to an offense 216  
listed in division (A)(1), (3), (4), (5), or (6) of section 217  
109.572 of the Revised Code, the request shall be treated as a 218  
single request and only one fee shall be charged. 219

(F)(1) As used in division (F)(2) of this section, "head 220  
start agency" means an entity in this state that has been approved 221  
to be an agency for purposes of subchapter II of the "Community 222  
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 223  
as amended. 224

(2)(a) In addition to or in conjunction with any request that 225  
is required to be made under section 109.572, 2151.86, 3301.32, 226  
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 227  
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 228  
Code or that is made under section 3314.41, 3319.392, ~~or~~ 3326.25, 229  
or 3328.20 of the Revised Code, the board of education of any 230  
school district; the director of developmental disabilities; any 231  
county board of developmental disabilities; any entity under 232  
contract with a county board of developmental disabilities; the 233  
chief administrator of any chartered nonpublic school; the chief 234  
administrator of any home health agency; the chief administrator 235  
of or person operating any child day-care center, type A family 236  
day-care home, or type B family day-care home licensed or 237  
certified under Chapter 5104. of the Revised Code; the 238  
administrator of any type C family day-care home certified 239  
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 240  
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 241  
assembly; the chief administrator of any head start agency; the 242  
executive director of a public children services agency; a private 243  
company described in section 3314.41, 3319.392, ~~or~~ 3326.25, or 244



3328.20 of the Revised Code; or an employer described in division 245  
(J)(2) of section 3327.10 of the Revised Code may request that the 246  
superintendent of the bureau investigate and determine, with 247  
respect to any individual who has applied for employment in any 248  
position after October 2, 1989, or any individual wishing to apply 249  
for employment with a board of education may request, with regard 250  
to the individual, whether the bureau has any information gathered 251  
under division (A) of this section that pertains to that 252  
individual. On receipt of the request, the superintendent shall 253  
determine whether that information exists and, upon request of the 254  
person, board, or entity requesting information, also shall 255  
request from the federal bureau of investigation any criminal 256  
records it has pertaining to that individual. The superintendent 257  
or the superintendent's designee also may request criminal history 258  
records from other states or the federal government pursuant to 259  
the national crime prevention and privacy compact set forth in 260  
section 109.571 of the Revised Code. Within thirty days of the 261  
date that the superintendent receives a request, the 262  
superintendent shall send to the board, entity, or person a report 263  
of any information that the superintendent determines exists, 264  
including information contained in records that have been sealed 265  
under section 2953.32 of the Revised Code, and, within thirty days 266  
of its receipt, shall send the board, entity, or person a report 267  
of any information received from the federal bureau of 268  
investigation, other than information the dissemination of which 269  
is prohibited by federal law. 270

(b) When a board of education is required to receive 271  
information under this section as a prerequisite to employment of 272  
an individual pursuant to section 3319.39 of the Revised Code, it 273  
may accept a certified copy of records that were issued by the 274  
bureau of criminal identification and investigation and that are 275  
presented by an individual applying for employment with the 276  
district in lieu of requesting that information itself. In such a 277

case, the board shall accept the certified copy issued by the 278  
bureau in order to make a photocopy of it for that individual's 279  
employment application documents and shall return the certified 280  
copy to the individual. In a case of that nature, a district only 281  
shall accept a certified copy of records of that nature within one 282  
year after the date of their issuance by the bureau. 283

(c) Notwithstanding division (F)(2)(a) of this section, in 284  
the case of a request under section 3319.39, 3319.391, or 3327.10 285  
of the Revised Code only for criminal records maintained by the 286  
federal bureau of investigation, the superintendent shall not 287  
determine whether any information gathered under division (A) of 288  
this section exists on the person for whom the request is made. 289

(3) The state board of education may request, with respect to 290  
any individual who has applied for employment after October 2, 291  
1989, in any position with the state board or the department of 292  
education, any information that a school district board of 293  
education is authorized to request under division (F)(2) of this 294  
section, and the superintendent of the bureau shall proceed as if 295  
the request has been received from a school district board of 296  
education under division (F)(2) of this section. 297

(4) When the superintendent of the bureau receives a request 298  
for information under section 3319.291 of the Revised Code, the 299  
superintendent shall proceed as if the request has been received 300  
from a school district board of education and shall comply with 301  
divisions (F)(2)(a) and (c) of this section. 302

(5) When a recipient of a classroom reading improvement grant 303  
paid under section 3301.86 of the Revised Code requests, with 304  
respect to any individual who applies to participate in providing 305  
any program or service funded in whole or in part by the grant, 306  
the information that a school district board of education is 307  
authorized to request under division (F)(2)(a) of this section, 308  
the superintendent of the bureau shall proceed as if the request 309

has been received from a school district board of education under 310  
division (F)(2)(a) of this section. 311

(G) In addition to or in conjunction with any request that is 312  
required to be made under section 3701.881, 3712.09, 3721.121, or 313  
3722.151 of the Revised Code with respect to an individual who has 314  
applied for employment in a position that involves providing 315  
direct care to an older adult, the chief administrator of a home 316  
health agency, hospice care program, home licensed under Chapter 317  
3721. of the Revised Code, adult day-care program operated 318  
pursuant to rules adopted under section 3721.04 of the Revised 319  
Code, or adult care facility may request that the superintendent 320  
of the bureau investigate and determine, with respect to any 321  
individual who has applied after January 27, 1997, for employment 322  
in a position that does not involve providing direct care to an 323  
older adult, whether the bureau has any information gathered under 324  
division (A) of this section that pertains to that individual. 325

In addition to or in conjunction with any request that is 326  
required to be made under section 173.27 of the Revised Code with 327  
respect to an individual who has applied for employment in a 328  
position that involves providing ombudsperson services to 329  
residents of long-term care facilities or recipients of 330  
community-based long-term care services, the state long-term care 331  
ombudsperson, ombudsperson's designee, or director of health may 332  
request that the superintendent investigate and determine, with 333  
respect to any individual who has applied for employment in a 334  
position that does not involve providing such ombudsperson 335  
services, whether the bureau has any information gathered under 336  
division (A) of this section that pertains to that applicant. 337

In addition to or in conjunction with any request that is 338  
required to be made under section 173.394 of the Revised Code with 339  
respect to an individual who has applied for employment in a 340  
position that involves providing direct care to an individual, the 341

chief administrator of a community-based long-term care agency may 342  
request that the superintendent investigate and determine, with 343  
respect to any individual who has applied for employment in a 344  
position that does not involve providing direct care, whether the 345  
bureau has any information gathered under division (A) of this 346  
section that pertains to that applicant. 347

On receipt of a request under this division, the 348  
superintendent shall determine whether that information exists 349  
and, on request of the individual requesting information, shall 350  
also request from the federal bureau of investigation any criminal 351  
records it has pertaining to the applicant. The superintendent or 352  
the superintendent's designee also may request criminal history 353  
records from other states or the federal government pursuant to 354  
the national crime prevention and privacy compact set forth in 355  
section 109.571 of the Revised Code. Within thirty days of the 356  
date a request is received, the superintendent shall send to the 357  
requester a report of any information determined to exist, 358  
including information contained in records that have been sealed 359  
under section 2953.32 of the Revised Code, and, within thirty days 360  
of its receipt, shall send the requester a report of any 361  
information received from the federal bureau of investigation, 362  
other than information the dissemination of which is prohibited by 363  
federal law. 364

(H) Information obtained by a government entity or person 365  
under this section is confidential and shall not be released or 366  
disseminated. 367

(I) The superintendent may charge a reasonable fee for 368  
providing information or criminal records under division (F)(2) or 369  
(G) of this section. 370

(J) As used in this section, "sexually oriented offense" and 371  
"child-victim oriented offense" have the same meanings as in 372  
section 2950.01 of the Revised Code. 373

Sec. 3313.61. (A) A diploma shall be granted by the board of 374  
education of any city, exempted village, or local school district 375  
that operates a high school to any person to whom all of the 376  
following apply: 377

(1) The person has successfully completed the curriculum in 378  
any high school or the individualized education program developed 379  
for the person by any high school pursuant to section 3323.08 of 380  
the Revised Code, or has qualified under division (D) or (F) of 381  
section 3313.603 of the Revised Code, provided that no school 382  
district shall require a student to remain in school for any 383  
specific number of semesters or other terms if the student 384  
completes the required curriculum early; 385

(2) Subject to section 3313.614 of the Revised Code, the 386  
person has met the assessment requirements of division (A)(2)(a) 387  
or (b) of this section, as applicable. 388

(a) If the person entered the ninth grade prior to the date 389  
prescribed by rule of the state board of education under division 390  
(E)(2) of section 3301.0712 of the Revised Code, the person 391  
either: 392

(i) Has attained at least the applicable scores designated 393  
under division (B)(1) of section 3301.0710 of the Revised Code on 394  
all the assessments required by that division unless the person 395  
was excused from taking any such assessment pursuant to section 396  
3313.532 of the Revised Code or unless division (H) or (L) of this 397  
section applies to the person; 398

(ii) Has satisfied the alternative conditions prescribed in 399  
section 3313.615 of the Revised Code. 400

(b) If the person entered the ninth grade on or after the 401  
date prescribed by rule of the state board under division (E)(2) 402  
of section 3301.0712 of the Revised Code, the person has attained 403

on the entire assessment system prescribed under division (B)(2) 404  
of section 3301.0710 of the Revised Code at least the required 405  
passing composite score, designated under division (C)(1) of 406  
section 3301.0712 of the Revised Code, except to the extent that 407  
the person is excused from some portion of that assessment system 408  
pursuant to section 3313.532 of the Revised Code or division (H) 409  
or (L) of this section. 410

(3) The person is not eligible to receive an honors diploma 411  
granted pursuant to division (B) of this section. 412

Except as provided in divisions (C), (E), (J), and (L) of 413  
this section, no diploma shall be granted under this division to 414  
anyone except as provided under this division. 415

(B) In lieu of a diploma granted under division (A) of this 416  
section, an honors diploma shall be granted, in accordance with 417  
rules of the state board, by any such district board to anyone who 418  
accomplishes all of the following: 419

(1) Successfully completes the curriculum in any high school 420  
or the individualized education program developed for the person 421  
by any high school pursuant to section 3323.08 of the Revised 422  
Code; 423

(2) Subject to section 3313.614 of the Revised Code, has met 424  
the assessment requirements of division (B)(2)(a) or (b) of this 425  
section, as applicable. 426

(a) If the person entered the ninth grade prior to the date 427  
prescribed by rule of the state board of education under division 428  
(E)(2) of section 3301.0712 of the Revised Code, the person 429  
either: 430

(i) Has attained at least the applicable scores designated 431  
under division (B)(1) of section 3301.0710 of the Revised Code on 432  
all the assessments required by that division; 433

(ii) Has satisfied the alternative conditions prescribed in 434  
section 3313.615 of the Revised Code. 435

(b) If the person entered the ninth grade on or after the 436  
date prescribed by rule of the state board under division (E)(2) 437  
of section 3301.0712 of the Revised Code, the person has attained 438  
on the entire assessment system prescribed under division (B)(2) 439  
of section 3301.0710 of the Revised Code at least the required 440  
passing composite score, designated under division (C)(1) of 441  
section 3301.0712 of the Revised Code. 442

(3) Has met additional criteria established by the state 443  
board for the granting of such a diploma. 444

An honors diploma shall not be granted to a student who is 445  
subject to the Ohio core curriculum prescribed in division (C) of 446  
section 3313.603 of the Revised Code but elects the option of 447  
division (D) or (F) of that section. Except as provided in 448  
divisions (C), (E), and (J) of this section, no honors diploma 449  
shall be granted to anyone failing to comply with this division 450  
and no more than one honors diploma shall be granted to any 451  
student under this division. 452

The state board shall adopt rules prescribing the granting of 453  
honors diplomas under this division. These rules may prescribe the 454  
granting of honors diplomas that recognize a student's achievement 455  
as a whole or that recognize a student's achievement in one or 456  
more specific subjects or both. The rules may prescribe the 457  
granting of an honors diploma recognizing technical expertise for 458  
a career-technical student. In any case, the rules shall designate 459  
two or more criteria for the granting of each type of honors 460  
diploma the board establishes under this division and the number 461  
of such criteria that must be met for the granting of that type of 462  
diploma. The number of such criteria for any type of honors 463  
diploma shall be at least one less than the total number of 464  
criteria designated for that type and no one or more particular 465

criteria shall be required of all persons who are to be granted 466  
that type of diploma. 467

(C) Any district board administering any of the assessments 468  
required by section 3301.0710 of the Revised Code to any person 469  
requesting to take such assessment pursuant to division (B)(8)(b) 470  
of section 3301.0711 of the Revised Code shall award a diploma to 471  
such person if the person attains at least the applicable scores 472  
designated under division (B)(1) of section 3301.0710 of the 473  
Revised Code on all the assessments administered and if the person 474  
has previously attained the applicable scores on all the other 475  
assessments required by division (B)(1) of that section or has 476  
been exempted or excused from attaining the applicable score on 477  
any such assessment pursuant to division (H) or (L) of this 478  
section or from taking any such assessment pursuant to section 479  
3313.532 of the Revised Code. 480

(D) Each diploma awarded under this section shall be signed 481  
by the president and treasurer of the issuing board, the 482  
superintendent of schools, and the principal of the high school. 483  
Each diploma shall bear the date of its issue, be in such form as 484  
the district board prescribes, and be paid for out of the 485  
district's general fund. 486

(E) A person who is a resident of Ohio and is eligible under 487  
state board of education minimum standards to receive a high 488  
school diploma based in whole or in part on credits earned while 489  
an inmate of a correctional institution operated by the state or 490  
any political subdivision thereof, shall be granted such diploma 491  
by the correctional institution operating the programs in which 492  
such credits were earned, and by the board of education of the 493  
school district in which the inmate resided immediately prior to 494  
the inmate's placement in the institution. The diploma granted by 495  
the correctional institution shall be signed by the director of 496  
the institution, and by the person serving as principal of the 497



institution's high school and shall bear the date of issue. 498

(F) Persons who are not residents of Ohio but who are inmates 499  
of correctional institutions operated by the state or any 500  
political subdivision thereof, and who are eligible under state 501  
board of education minimum standards to receive a high school 502  
diploma based in whole or in part on credits earned while an 503  
inmate of the correctional institution, shall be granted a diploma 504  
by the correctional institution offering the program in which the 505  
credits were earned. The diploma granted by the correctional 506  
institution shall be signed by the director of the institution and 507  
by the person serving as principal of the institution's high 508  
school and shall bear the date of issue. 509

(G) The state board of education shall provide by rule for 510  
the administration of the assessments required by section 511  
3301.0710 of the Revised Code to inmates of correctional 512  
institutions. 513

(H) Any person to whom all of the following apply shall be 514  
exempted from attaining the applicable score on the assessment in 515  
social studies designated under division (B)(1) of section 516  
3301.0710 of the Revised Code, any social studies end-of-course 517  
examination required under division (B)(2) of that section if such 518  
an exemption is prescribed by rule of the state board under 519  
division (E)(4) of section 3301.0712 of the Revised Code, or the 520  
test in citizenship designated under former division (B) of 521  
section 3301.0710 of the Revised Code as it existed prior to 522  
September 11, 2001: 523

(1) The person is not a citizen of the United States; 524

(2) The person is not a permanent resident of the United 525  
States; 526

(3) The person indicates no intention to reside in the United 527  
States after the completion of high school. 528

(I) Notwithstanding division (D) of section 3311.19 and 529  
division (D) of section 3311.52 of the Revised Code, this section 530  
and section 3311.611 of the Revised Code do not apply to the board 531  
of education of any joint vocational school district or any 532  
cooperative education school district established pursuant to 533  
divisions (A) to (C) of section 3311.52 of the Revised Code. 534

(J) Upon receipt of a notice under division (D) of section 535  
3325.08 or division (D) of section 3328.25 of the Revised Code 536  
that a student has received a diploma under ~~that~~ either section, 537  
the board of education receiving the notice may grant a high 538  
school diploma under this section to the student, except that such 539  
board shall grant the student a diploma if the student meets the 540  
graduation requirements that the student would otherwise have had 541  
to meet to receive a diploma from the district. The diploma 542  
granted under this section shall be of the same type the notice 543  
indicates the student received under section 3325.08 or 3328.25 of 544  
the Revised Code. 545

(K) As used in this division, "limited English proficient 546  
student" has the same meaning as in division (C)(3) of section 547  
3301.0711 of the Revised Code. 548

Notwithstanding division (C)(3) of section 3301.0711 of the 549  
Revised Code, no limited English proficient student who has not 550  
either attained the applicable scores designated under division 551  
(B)(1) of section 3301.0710 of the Revised Code on all the 552  
assessments required by that division, or attained the composite 553  
score designated for the assessments required by division (B)(2) 554  
of that section, shall be awarded a diploma under this section. 555

(L) Any student described by division (A)(1) of this section 556  
may be awarded a diploma without attaining the applicable scores 557  
designated on the assessments prescribed under division (B) of 558  
section 3301.0710 of the Revised Code provided an individualized 559  
education program specifically exempts the student from attaining 560

such scores. This division does not negate the requirement for 561  
such a student to take all such assessments or alternate 562  
assessments required by division (C)(1) of section 3301.0711 of 563  
the Revised Code for the purpose of assessing student progress as 564  
required by federal law. 565

**Sec. 3317.03.** The information certified and verified under 566  
this section shall be used to calculate payments under this 567  
chapter and Chapter 3306. of the Revised Code. 568

(A) The superintendent of each city, local, and exempted 569  
village school district and of each educational service center 570  
shall, for the schools under the superintendent's supervision, 571  
certify to the state board of education on or before the fifteenth 572  
day of October in each year for the first full school week in 573  
October the average daily membership of students receiving 574  
services from schools under the superintendent's supervision, and 575  
the numbers of other students entitled to attend school in the 576  
district under section 3313.64 or 3313.65 of the Revised Code the 577  
superintendent is required to report under this section, so that 578  
the department of education can calculate the district's formula 579  
ADM. If a school under the superintendent's supervision is closed 580  
for one or more days during that week due to hazardous weather 581  
conditions or other circumstances described in the first paragraph 582  
of division (B) of section 3317.01 of the Revised Code, the 583  
superintendent may apply to the superintendent of public 584  
instruction for a waiver, under which the superintendent of public 585  
instruction may exempt the district superintendent from certifying 586  
the average daily membership for that school for that week and 587  
specify an alternate week for certifying the average daily 588  
membership of that school. 589

The average daily membership during such week shall consist 590  
of the sum of the following: 591

(1) On an FTE basis, the number of students in grades	592
kindergarten through twelve receiving any educational services	593
from the district, except that the following categories of	594
students shall not be included in the determination:	595
(a) Students enrolled in adult education classes;	596
(b) Adjacent or other district students enrolled in the	597
district under an open enrollment policy pursuant to section	598
3313.98 of the Revised Code;	599
(c) Students receiving services in the district pursuant to a	600
compact, cooperative education agreement, or a contract, but who	601
are entitled to attend school in another district pursuant to	602
section 3313.64 or 3313.65 of the Revised Code;	603
(d) Students for whom tuition is payable pursuant to sections	604
3317.081 and 3323.141 of the Revised Code;	605
(e) Students receiving services in the district through a	606
scholarship awarded under section 3310.41 of the Revised Code.	607
(2) On an FTE basis, the number of students entitled to	608
attend school in the district pursuant to section 3313.64 or	609
3313.65 of the Revised Code, but receiving educational services in	610
grades kindergarten through twelve from one or more of the	611
following entities:	612
(a) A community school pursuant to Chapter 3314. of the	613
Revised Code, including any participation in a college pursuant to	614
Chapter 3365. of the Revised Code while enrolled in such community	615
school;	616
(b) An alternative school pursuant to sections 3313.974 to	617
3313.979 of the Revised Code as described in division (I)(2)(a) or	618
(b) of this section;	619
(c) A college pursuant to Chapter 3365. of the Revised Code,	620
except when the student is enrolled in the college while also	621

enrolled in a community school pursuant to Chapter 3314. or a 622  
science, technology, engineering, and mathematics school 623  
established under Chapter 3326. of the Revised Code; 624

(d) An adjacent or other school district under an open 625  
enrollment policy adopted pursuant to section 3313.98 of the 626  
Revised Code; 627

(e) An educational service center or cooperative education 628  
district; 629

(f) Another school district under a cooperative education 630  
agreement, compact, or contract; 631

(g) A chartered nonpublic school with a scholarship paid 632  
under section 3310.08 of the Revised Code; 633

(h) An alternative public provider or a registered private 634  
provider with a scholarship awarded under section 3310.41 of the 635  
Revised Code. 636

As used in this section, "alternative public provider" and 637  
"registered private provider" have the same meanings as in section 638  
3310.41 of the Revised Code. 639

(i) A science, technology, engineering, and mathematics 640  
school established under Chapter 3326. of the Revised Code, 641  
including any participation in a college pursuant to Chapter 3365. 642  
of the Revised Code while enrolled in the school; 643

(j) A college-preparatory boarding school established under 644  
Chapter 3328. of the Revised Code. 645

(3) The number of students enrolled in a joint vocational 646  
school district or under a vocational education compact, excluding 647  
any students entitled to attend school in the district under 648  
section 3313.64 or 3313.65 of the Revised Code who are enrolled in 649  
another school district through an open enrollment policy as 650  
reported under division (A)(2)(d) of this section and then enroll 651

in a joint vocational school district or under a vocational 652  
education compact; 653

(4) The number of children with disabilities, other than 654  
preschool children with disabilities, entitled to attend school in 655  
the district pursuant to section 3313.64 or 3313.65 of the Revised 656  
Code who are placed by the district with a county DD board, minus 657  
the number of such children placed with a county DD board in 658  
fiscal year 1998. If this calculation produces a negative number, 659  
the number reported under division (A)(4) of this section shall be 660  
zero. 661

(B) To enable the department of education to obtain the data 662  
needed to complete the calculation of payments pursuant to this 663  
chapter and Chapter 3306. of the Revised Code, in addition to the 664  
average daily membership, each superintendent shall report 665  
separately the following student counts for the same week for 666  
which average daily membership is certified: 667

(1) The total average daily membership in regular learning 668  
day classes included in the report under division (A)(1) or (2) of 669  
this section for each of the individual grades kindergarten 670  
through twelve in schools under the superintendent's supervision; 671

(2) The number of all preschool children with disabilities 672  
enrolled as of the first day of December in classes in the 673  
district that are eligible for approval under division (B) of 674  
section 3317.05 of the Revised Code and the number of those 675  
classes, which shall be reported not later than the fifteenth day 676  
of December, in accordance with rules adopted under that section; 677

(3) The number of children entitled to attend school in the 678  
district pursuant to section 3313.64 or 3313.65 of the Revised 679  
Code who are: 680

(a) Participating in a pilot project scholarship program 681  
established under sections 3313.974 to 3313.979 of the Revised 682

Code as described in division (I)(2)(a) or (b) of this section;	683
(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;	684 685 686 687 688
(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;	689 690
(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;	691 692 693 694 695 696
(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	697 698 699 700
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	701 702
(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	703 704 705
(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	706 707 708
(i) Participating in a program operated by a county DD board or a state institution;	709 710
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised	711 712

Code, including any participation in a college pursuant to Chapter	713
3365. of the Revised Code while enrolled in the school;	714
<u>(k) Enrolled in a college-preparatory boarding school</u>	715
<u>established under Chapter 3328. of the Revised Code.</u>	716
(4) The number of pupils enrolled in joint vocational	717
schools;	718
(5) The average daily membership of children with	719
disabilities reported under division (A)(1) or (2) of this section	720
receiving special education services for the category one	721
disability described in division (D)(1) of section 3306.02 of the	722
Revised Code;	723
(6) The average daily membership of children with	724
disabilities reported under division (A)(1) or (2) of this section	725
receiving special education services for category two disabilities	726
described in division (D)(2) of section 3306.02 of the Revised	727
Code;	728
(7) The average daily membership of children with	729
disabilities reported under division (A)(1) or (2) of this section	730
receiving special education services for category three	731
disabilities described in division (D)(3) of section 3306.02 of	732
the Revised Code;	733
(8) The average daily membership of children with	734
disabilities reported under division (A)(1) or (2) of this section	735
receiving special education services for category four	736
disabilities described in division (D)(4) of section 3306.02 of	737
the Revised Code;	738
(9) The average daily membership of children with	739
disabilities reported under division (A)(1) or (2) of this section	740
receiving special education services for the category five	741
disabilities described in division (D)(5) of section 3306.02 of	742
the Revised Code;	743



(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education services for category six disabilities described in division (D)(6) of section 3306.02 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

Beginning with fiscal year 2010, vocational education ADM shall not be used to calculate a district's funding but shall be reported under divisions (B)(11) and (12) of this section for statistical purposes.

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;	776 777 778 779
(14)(a) The number of children, other than preschool children with disabilities, the district placed with a county DD board in fiscal year 1998;	780 781 782
(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category one disability described in division (D)(1) of section 3306.02 of the Revised Code;	783 784 785 786 787
(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category two disabilities described in division (D)(2) of section 3306.02 of the Revised Code;	788 789 790 791 792
(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category three disabilities described in division (D)(3) of section 3306.02 of the Revised Code;	793 794 795 796 797
(e) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category four disabilities described in division (D)(4) of section 3306.02 of the Revised Code;	798 799 800 801 802
(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category five disabilities described in division	803 804 805 806

(D)(5) of section 3306.02 of the Revised Code; 807

(g) The number of children with disabilities, other than 808  
preschool children with disabilities, placed with a county DD 809  
board in the current fiscal year to receive special education 810  
services for category six disabilities described in division 811  
(D)(6) of section 3306.02 of the Revised Code. 812

(C)(1) The average daily membership in divisions (B)(1) to 813  
(12) of this section shall be based upon the number of full-time 814  
equivalent students. The state board of education shall adopt 815  
rules defining full-time equivalent students and for determining 816  
the average daily membership therefrom for the purposes of 817  
divisions (A), (B), and (D) of this section. Each student enrolled 818  
in kindergarten shall be counted as one full-time equivalent 819  
student regardless of whether the student is enrolled in a 820  
part-day or all-day kindergarten class. 821

(2) A student enrolled in a community school established 822  
under Chapter 3314. ~~or~~ a science, technology, engineering, and 823  
mathematics school established under Chapter 3326. or a 824  
college-preparatory boarding school established under Chapter 825  
3328. of the Revised Code shall be counted in the formula ADM and, 826  
if applicable, the category one, two, three, four, five, or six 827  
special education ADM of the school district in which the student 828  
is entitled to attend school under section 3313.64 or 3313.65 of 829  
the Revised Code for the same proportion of the school year that 830  
the student is counted in the enrollment of the community school 831  
~~or the~~ science, technology, engineering, and mathematics school 832  
or college-preparatory boarding school for purposes of section 833  
3314.08 ~~or~~ 3326.33, or 3328.34 of the Revised Code. 834  
Notwithstanding the number of students reported pursuant to 835  
division (B)(3)(d), (e), ~~or~~ (j), or (k) of this section, the 836  
department may adjust the formula ADM of a school district to 837  
account for students entitled to attend school in the district 838

under section 3313.64 or 3313.65 of the Revised Code who are 839  
enrolled in a community school ~~or a~~ science, technology, 840  
engineering, and mathematics school; or college-preparatory 841  
boarding school for only a portion of the school year. 842

(3) No child shall be counted as more than a total of one 843  
child in the sum of the average daily memberships of a school 844  
district under division (A), divisions (B)(1) to (12), or division 845  
(D) of this section, except as follows: 846

(a) A child with a disability described in division (D) of 847  
section 3306.02 of the Revised Code may be counted both in formula 848  
ADM and in category one, two, three, four, five, or six special 849  
education ADM and, if applicable, in category one or two 850  
vocational education ADM. As provided in division (C) of section 851  
3317.02 of the Revised Code, such a child shall be counted in 852  
category one, two, three, four, five, or six special education ADM 853  
in the same proportion that the child is counted in formula ADM. 854

(b) A child enrolled in vocational education programs or 855  
classes described in section 3317.014 of the Revised Code may be 856  
counted both in formula ADM and category one or two vocational 857  
education ADM and, if applicable, in category one, two, three, 858  
four, five, or six special education ADM. Such a child shall be 859  
counted in category one or two vocational education ADM in the 860  
same proportion as the percentage of time that the child spends in 861  
the vocational education programs or classes. 862

(4) Based on the information reported under this section, the 863  
department of education shall determine the total student count, 864  
as defined in section 3301.011 of the Revised Code, for each 865  
school district. 866

(D)(1) The superintendent of each joint vocational school 867  
district shall certify to the superintendent of public instruction 868  
on or before the fifteenth day of October in each year for the 869

first full school week in October the formula ADM, for purposes of 870  
section 3318.42 of the Revised Code and for any other purpose 871  
prescribed by law for which "formula ADM" of the joint vocational 872  
district is a factor. If a school operated by the joint vocational 873  
school district is closed for one or more days during that week 874  
due to hazardous weather conditions or other circumstances 875  
described in the first paragraph of division (B) of section 876  
3317.01 of the Revised Code, the superintendent may apply to the 877  
superintendent of public instruction for a waiver, under which the 878  
superintendent of public instruction may exempt the district 879  
superintendent from certifying the formula ADM for that school for 880  
that week and specify an alternate week for certifying the formula 881  
ADM of that school. 882

The formula ADM, except as otherwise provided in this 883  
division, shall consist of the average daily membership during 884  
such week, on an FTE basis, of the number of students receiving 885  
any educational services from the district, including students 886  
enrolled in a community school established under Chapter 3314. or 887  
a science, technology, engineering, and mathematics school 888  
established under Chapter 3326. of the Revised Code who are 889  
attending the joint vocational district under an agreement between 890  
the district board of education and the governing authority of the 891  
community school or the governing body of the science, technology, 892  
engineering, and mathematics school and are entitled to attend 893  
school in a city, local, or exempted village school district whose 894  
territory is part of the territory of the joint vocational 895  
district. 896

The following categories of students shall not be included in 897  
the determination made under division (D)(1) of this section: 898

(a) Students enrolled in adult education classes; 899

(b) Adjacent or other district joint vocational students 900  
enrolled in the district under an open enrollment policy pursuant 901

to section 3313.98 of the Revised Code; 902

(c) Students receiving services in the district pursuant to a 903  
compact, cooperative education agreement, or a contract, but who 904  
are entitled to attend school in a city, local, or exempted 905  
village school district whose territory is not part of the 906  
territory of the joint vocational district; 907

(d) Students for whom tuition is payable pursuant to sections 908  
3317.081 and 3323.141 of the Revised Code. 909

(2) In addition to the formula ADM, each superintendent shall 910  
report separately the average daily membership included in the 911  
report under division (D)(1) of this section for each of the 912  
following categories of students for the same week for which 913  
formula ADM is certified: 914

(a) Students enrolled in each individual grade included in 915  
the joint vocational district schools; 916

(b) Children with disabilities receiving special education 917  
services for the category one disability described in division 918  
(D)(1) of section 3306.02 of the Revised Code; 919

(c) Children with disabilities receiving special education 920  
services for the category two disabilities described in division 921  
(D)(2) of section 3306.02 of the Revised Code; 922

(d) Children with disabilities receiving special education 923  
services for category three disabilities described in division 924  
(D)(3) of section 3306.02 of the Revised Code; 925

(e) Children with disabilities receiving special education 926  
services for category four disabilities described in division 927  
(D)(4) of section 3306.02 of the Revised Code; 928

(f) Children with disabilities receiving special education 929  
services for the category five disabilities described in division 930  
(D)(5) of section 3306.02 of the Revised Code; 931

(g) Children with disabilities receiving special education 932  
services for category six disabilities described in division 933  
(D)(6) of section 3306.02 of the Revised Code; 934

(h) Students receiving category one vocational education 935  
services, described in division (A) of section 3317.014 of the 936  
Revised Code; 937

(i) Students receiving category two vocational education 938  
services, described in division (B) of section 3317.014 of the 939  
Revised Code. 940

The superintendent of each joint vocational school district 941  
shall also indicate the city, local, or exempted village school 942  
district in which each joint vocational district pupil is entitled 943  
to attend school pursuant to section 3313.64 or 3313.65 of the 944  
Revised Code. 945

(E) In each school of each city, local, exempted village, 946  
joint vocational, and cooperative education school district there 947  
shall be maintained a record of school membership, which record 948  
shall accurately show, for each day the school is in session, the 949  
actual membership enrolled in regular day classes. For the purpose 950  
of determining average daily membership, the membership figure of 951  
any school shall not include any pupils except those pupils 952  
described by division (A) of this section. The record of 953  
membership for each school shall be maintained in such manner that 954  
no pupil shall be counted as in membership prior to the actual 955  
date of entry in the school and also in such manner that where for 956  
any cause a pupil permanently withdraws from the school that pupil 957  
shall not be counted as in membership from and after the date of 958  
such withdrawal. There shall not be included in the membership of 959  
any school any of the following: 960

(1) Any pupil who has graduated from the twelfth grade of a 961  
public or nonpublic high school; 962

(2) Any pupil who is not a resident of the state; 963

(3) Any pupil who was enrolled in the schools of the district 964  
during the previous school year when assessments were administered 965  
under section 3301.0711 of the Revised Code but did not take one 966  
or more of the assessments required by that section and was not 967  
excused pursuant to division (C)(1) or (3) of that section; 968

(4) Any pupil who has attained the age of twenty-two years, 969  
except for veterans of the armed services whose attendance was 970  
interrupted before completing the recognized twelve-year course of 971  
the public schools by reason of induction or enlistment in the 972  
armed forces and who apply for reenrollment in the public school 973  
system of their residence not later than four years after 974  
termination of war or their honorable discharge. 975

If, however, any veteran described by division (E)(4) of this 976  
section elects to enroll in special courses organized for veterans 977  
for whom tuition is paid under the provisions of federal laws, or 978  
otherwise, that veteran shall not be included in average daily 979  
membership. 980

Notwithstanding division (E)(3) of this section, the 981  
membership of any school may include a pupil who did not take an 982  
assessment required by section 3301.0711 of the Revised Code if 983  
the superintendent of public instruction grants a waiver from the 984  
requirement to take the assessment to the specific pupil and a 985  
parent is not paying tuition for the pupil pursuant to section 986  
3313.6410 of the Revised Code. The superintendent may grant such a 987  
waiver only for good cause in accordance with rules adopted by the 988  
state board of education. 989

Except as provided in divisions (B)(2) and (F) of this 990  
section, the average daily membership figure of any local, city, 991  
exempted village, or joint vocational school district shall be 992  
determined by dividing the figure representing the sum of the 993



number of pupils enrolled during each day the school of attendance 994  
is actually open for instruction during the week for which the 995  
average daily membership is being certified by the total number of 996  
days the school was actually open for instruction during that 997  
week. For purposes of state funding, "enrolled" persons are only 998  
those pupils who are attending school, those who have attended 999  
school during the current school year and are absent for 1000  
authorized reasons, and those children with disabilities currently 1001  
receiving home instruction. 1002

The average daily membership figure of any cooperative 1003  
education school district shall be determined in accordance with 1004  
rules adopted by the state board of education. 1005

(F)(1) If the formula ADM for the first full school week in 1006  
February is at least three per cent greater than that certified 1007  
for the first full school week in the preceding October, the 1008  
superintendent of schools of any city, exempted village, or joint 1009  
vocational school district or educational service center shall 1010  
certify such increase to the superintendent of public instruction. 1011  
Such certification shall be submitted no later than the fifteenth 1012  
day of February. For the balance of the fiscal year, beginning 1013  
with the February payments, the superintendent of public 1014  
instruction shall use the increased formula ADM in calculating or 1015  
recalculating the amounts to be allocated in accordance with 1016  
section 3317.022 or 3317.16 of the Revised Code. In no event shall 1017  
the superintendent use an increased membership certified to the 1018  
superintendent after the fifteenth day of February. Division 1019  
(F)(1) of this section does not apply after fiscal year 2006. 1020

(2) If on the first school day of April the total number of 1021  
classes or units for preschool children with disabilities that are 1022  
eligible for approval under division (B) of section 3317.05 of the 1023  
Revised Code exceeds the number of units that have been approved 1024  
for the year under that division, the superintendent of schools of 1025

any city, exempted village, or cooperative education school 1026  
district or educational service center shall make the 1027  
certifications required by this section for that day. If the 1028  
department determines additional units can be approved for the 1029  
fiscal year within any limitations set forth in the acts 1030  
appropriating moneys for the funding of such units, the department 1031  
shall approve additional units for the fiscal year on the basis of 1032  
such average daily membership. For each unit so approved, the 1033  
department shall pay an amount computed in the manner prescribed 1034  
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 1035  
Code. 1036

(3) If a student attending a community school under Chapter 1037  
3314. ~~or~~ a science, technology, engineering, and mathematics 1038  
school established under Chapter 3326. or a college-preparatory 1039  
boarding school established under Chapter 3328. of the Revised 1040  
Code is not included in the formula ADM certified for the school 1041  
district in which the student is entitled to attend school under 1042  
section 3313.64 or 3313.65 of the Revised Code, the department of 1043  
education shall adjust the formula ADM of that school district to 1044  
include the student in accordance with division (C)(2) of this 1045  
section, and shall recalculate the school district's payments 1046  
under this chapter and Chapter 3306. of the Revised Code for the 1047  
entire fiscal year on the basis of that adjusted formula ADM. This 1048  
requirement applies regardless of whether the student was 1049  
enrolled, as defined in division (E) of this section, in the 1050  
community school ~~or the~~ science, technology, engineering, and 1051  
mathematics school; or college-preparatory boarding school during 1052  
the week for which the formula ADM is being certified. 1053

(4) If a student awarded an educational choice scholarship is 1054  
not included in the formula ADM of the school district from which 1055  
the department deducts funds for the scholarship under section 1056  
3310.08 of the Revised Code, the department shall adjust the 1057

formula ADM of that school district to include the student to the 1058  
extent necessary to account for the deduction, and shall 1059  
recalculate the school district's payments under this chapter and 1060  
Chapter 3306. of the Revised Code for the entire fiscal year on 1061  
the basis of that adjusted formula ADM. This requirement applies 1062  
regardless of whether the student was enrolled, as defined in 1063  
division (E) of this section, in the chartered nonpublic school, 1064  
the school district, or a community school during the week for 1065  
which the formula ADM is being certified. 1066

(G)(1)(a) The superintendent of an institution operating a 1067  
special education program pursuant to section 3323.091 of the 1068  
Revised Code shall, for the programs under such superintendent's 1069  
supervision, certify to the state board of education, in the 1070  
manner prescribed by the superintendent of public instruction, 1071  
both of the following: 1072

(i) The average daily membership of all children with 1073  
disabilities other than preschool children with disabilities 1074  
receiving services at the institution for each category of 1075  
disability described in divisions (D)(1) to (6) of section 3306.02 1076  
of the Revised Code; 1077

(ii) The average daily membership of all preschool children 1078  
with disabilities in classes or programs approved annually by the 1079  
department of education for unit funding under section 3317.05 of 1080  
the Revised Code. 1081

(b) The superintendent of an institution with vocational 1082  
education units approved under division (A) of section 3317.05 of 1083  
the Revised Code shall, for the units under the superintendent's 1084  
supervision, certify to the state board of education the average 1085  
daily membership in those units, in the manner prescribed by the 1086  
superintendent of public instruction. 1087

(2) The superintendent of each county DD board that maintains 1088

special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

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

(b) Certify to the state board, in the manner prescribed by the board, the number of all preschool children with disabilities enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

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

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

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is

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

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

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

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

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of

education, the applicable average daily memberships for all 1151  
students in the cooperative education district, also indicating 1152  
the city, local, or exempted village district where each pupil is 1153  
entitled to attend school under section 3313.64 or 3313.65 of the 1154  
Revised Code. 1155

(K) If the superintendent of public instruction determines 1156  
that a component of the average daily membership certified or 1157  
reported by a district superintendent, or other reporting entity, 1158  
is not correct, the superintendent of public instruction may order 1159  
that the formula ADM used for the purposes of payments under any 1160  
section of Title XXXVIII of the Revised Code be adjusted in the 1161  
amount of the error. 1162

**Sec. 3319.31.** (A) As used in this section and sections 1163  
3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" 1164  
means a certificate, license, or permit described in this chapter 1165  
or in division (B) of section 3301.071 or in section 3301.074 of 1166  
the Revised Code. 1167

(B) For any of the following reasons, the state board of 1168  
education, in accordance with Chapter 119. and section 3319.311 of 1169  
the Revised Code, may refuse to issue a license to an applicant; 1170  
may limit a license it issues to an applicant; may suspend, 1171  
revoke, or limit a license that has been issued to any person; or 1172  
may revoke a license that has been issued to any person and has 1173  
expired: 1174

(1) Engaging in an immoral act, incompetence, negligence, or 1175  
conduct that is unbecoming to the applicant's or person's 1176  
position; 1177

(2) A plea of guilty to, a finding of guilt by a jury or 1178  
court of, or a conviction of any of the following: 1179

(a) A felony other than a felony listed in division (C) of 1180

this section; 1181

(b) An offense of violence other than an offense of violence 1182  
listed in division (C) of this section; 1183

(c) A theft offense, as defined in section 2913.01 of the 1184  
Revised Code, other than a theft offense listed in division (C) of 1185  
this section; 1186

(d) A drug abuse offense, as defined in section 2925.01 of 1187  
the Revised Code, that is not a minor misdemeanor, other than a 1188  
drug abuse offense listed in division (C) of this section; 1189

(e) A violation of an ordinance of a municipal corporation 1190  
that is substantively comparable to an offense listed in divisions 1191  
(B)(2)(a) to (d) of this section. 1192

(3) A judicial finding of eligibility for intervention in 1193  
lieu of conviction under section 2951.041 of the Revised Code, or 1194  
agreeing to participate in a pre-trial diversion program under 1195  
section 2935.36 of the Revised Code, or a similar diversion 1196  
program under rules of a court, for any offense listed in division 1197  
(B)(2) or (C) of this section; 1198

(4) Failure to comply with section 3314.40, 3319.313, 1199  
3326.24, 3328.19, or 5126.253 of the Revised Code. 1200

(C) Upon learning of a plea of guilty to, a finding of guilt 1201  
by a jury or court of, or a conviction of any of the offenses 1202  
listed in this division by a person who holds a current or expired 1203  
license or is an applicant for a license or renewal of a license, 1204  
the state board or the superintendent of public instruction, if 1205  
the state board has delegated the duty pursuant to division (D) of 1206  
this section, shall by a written order revoke the person's license 1207  
or deny issuance or renewal of the license to the person. The 1208  
state board or the superintendent shall revoke a license that has 1209  
been issued to a person to whom this division applies and has 1210  
expired in the same manner as a license that has not expired. 1211

Revocation of a license or denial of issuance or renewal of a license under this division is effective immediately at the time and date that the board or superintendent issues the written order and is not subject to appeal in accordance with Chapter 119. of the Revised Code. Revocation of a license or denial of issuance or renewal of license under this division remains in force during the pendency of an appeal by the person of the plea of guilty, finding of guilt, or conviction that is the basis of the action taken under this division.

The state board or superintendent shall take the action required by this division for a violation of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code; a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 of the Revised Code; a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996; a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date; felonious sexual penetration in violation of former section 2907.12 of the Revised Code; or a violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in this paragraph.



(D) The state board may delegate to the superintendent of public instruction the authority to revoke a person's license or to deny issuance or renewal of a license to a person under division (C) or (F) of this section.

(E)(1) If the plea of guilty, finding of guilt, or conviction that is the basis of the action taken under division (B)(2) or (C) of this section, or under the version of division (F) of section 3319.311 of the Revised Code in effect prior to ~~the effective date of this amendment~~ September 12, 2008, is overturned on appeal, upon exhaustion of the criminal appeal, the clerk of the court that overturned the plea, finding, or conviction or, if applicable, the clerk of the court that accepted an appeal from the court that overturned the plea, finding, or conviction, shall notify the state board that the plea, finding, or conviction has been overturned. Within thirty days after receiving the notification, the state board shall initiate proceedings to reconsider the revocation or denial of the person's license in accordance with division (E)(2) of this section. In addition, the person whose license was revoked or denied may file with the state board a petition for reconsideration of the revocation or denial along with appropriate court documents.

(2) Upon receipt of a court notification or a petition and supporting court documents under division (E)(1) of this section, the state board, after offering the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code, shall determine whether the person committed the act in question in the prior criminal action against the person that is the basis of the revocation or denial and may continue the revocation or denial, may reinstate the person's license, with or without limits, or may grant the person a new license, with or without limits. The decision of the board shall be based on grounds for revoking, denying, suspending, or limiting a license adopted by rule under

division (G) of this section and in accordance with the 1276  
evidentiary standards the board employs for all other licensure 1277  
hearings. The decision of the board under this division is subject 1278  
to appeal under Chapter 119. of the Revised Code. 1279

(3) A person whose license is revoked or denied under 1280  
division (C) of this section shall not apply for any license if 1281  
the plea of guilty, finding of guilt, or conviction that is the 1282  
basis of the revocation or denial, upon completion of the criminal 1283  
appeal, either is upheld or is overturned but the state board 1284  
continues the revocation or denial under division (E)(2) of this 1285  
section and that continuation is upheld on final appeal. 1286

(F) The state board may take action under division (B) of 1287  
this section, and the state board or the superintendent shall take 1288  
the action required under division (C) of this section, on the 1289  
basis of substantially comparable conduct occurring in a 1290  
jurisdiction outside this state or occurring before a person 1291  
applies for or receives any license. 1292

(G) The state board may adopt rules in accordance with 1293  
Chapter 119. of the Revised Code to carry out this section and 1294  
section 3319.311 of the Revised Code. 1295

**Sec. 3319.311.** (A)(1) The state board of education, or the 1296  
superintendent of public instruction on behalf of the board, may 1297  
investigate any information received about a person that 1298  
reasonably appears to be a basis for action under section 3319.31 1299  
of the Revised Code, including information received pursuant to 1300  
section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, 1301  
or 5153.176 of the Revised Code. Except as provided in division 1302  
(A)(2) of this section, the board shall contract with the office 1303  
of the Ohio attorney general to conduct any investigation of that 1304  
nature. The board shall pay for the costs of the contract only 1305  
from moneys in the state board of education licensure fund 1306

established under section 3319.51 of the Revised Code. Except as 1307  
provided in division (A)(2) of this section, all information 1308  
received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 1309  
3328.19, 5126.253, or 5153.176 of the Revised Code, and all 1310  
information obtained during an investigation is confidential and 1311  
is not a public record under section 149.43 of the Revised Code. 1312  
If an investigation is conducted under this division regarding 1313  
information received about a person and no action is taken against 1314  
the person under this section or section 3319.31 of the Revised 1315  
Code within two years of the completion of the investigation, all 1316  
records of the investigation shall be expunged. 1317

(2) In the case of a person about whom the board has learned 1318  
of a plea of guilty to, finding of guilt by a jury or court of, or 1319  
a conviction of an offense listed in division (C) of section 1320  
3319.31 of the Revised Code, or substantially comparable conduct 1321  
occurring in a jurisdiction outside this state, the board or the 1322  
superintendent of public instruction need not conduct any further 1323  
investigation and shall take the action required by division (C) 1324  
or (F) of that section. Except as provided in division (G) of this 1325  
section, all information obtained by the board or the 1326  
superintendent of public instruction pertaining to the action is a 1327  
public record under section 149.43 of the Revised Code. 1328

(B) The superintendent of public instruction shall review the 1329  
results of each investigation of a person conducted under division 1330  
(A)(1) of this section and shall determine, on behalf of the state 1331  
board, whether the results warrant initiating action under 1332  
division (B) of section 3319.31 of the Revised Code. The 1333  
superintendent shall advise the board of such determination at a 1334  
meeting of the board. Within fourteen days of the next meeting of 1335  
the board, any member of the board may ask that the question of 1336  
initiating action under section 3319.31 of the Revised Code be 1337  
placed on the board's agenda for that next meeting. Prior to 1338

initiating that action against any person, the person's name and 1339  
any other personally identifiable information shall remain 1340  
confidential. 1341

(C) The board shall take no action against a person under 1342  
division (B) of section 3319.31 of the Revised Code without 1343  
providing the person with written notice of the charges and with 1344  
an opportunity for a hearing in accordance with Chapter 119. of 1345  
the Revised Code. 1346

(D) For purposes of an investigation under division (A)(1) of 1347  
this section or a hearing under division (C) of this section or 1348  
under division (E)(2) of section 3319.31 of the Revised Code, the 1349  
board, or the superintendent on behalf of the board, may 1350  
administer oaths, order the taking of depositions, issue 1351  
subpoenas, and compel the attendance of witnesses and the 1352  
production of books, accounts, papers, records, documents, and 1353  
testimony. The issuance of subpoenas under this division may be by 1354  
certified mail or personal delivery to the person. 1355

(E) The superintendent, on behalf of the board, may enter 1356  
into a consent agreement with a person against whom action is 1357  
being taken under division (B) of section 3319.31 of the Revised 1358  
Code. The board may adopt rules governing the superintendent's 1359  
action under this division. 1360

(F) No surrender of a license shall be effective until the 1361  
board takes action to accept the surrender unless the surrender is 1362  
pursuant to a consent agreement entered into under division (E) of 1363  
this section. 1364

(G) The name of any person who is not required to report 1365  
information under section 3314.40, 3319.313, 3326.24, 3328.19, 1366  
5126.253, or 5153.176 of the Revised Code, but who in good faith 1367  
provides information to the state board or superintendent of 1368  
public instruction about alleged misconduct committed by a person 1369

who holds a license or has applied for issuance or renewal of a 1370  
license, shall be confidential and shall not be released. Any such 1371  
person shall be immune from any civil liability that otherwise 1372  
might be incurred or imposed for injury, death, or loss to person 1373  
or property as a result of the provision of that information. 1374

(H)(1) No person shall knowingly make a false report to the 1375  
superintendent of public instruction or the state board of 1376  
education alleging misconduct by an employee of a public or 1377  
chartered nonpublic school or an employee of the operator of a 1378  
community school established under Chapter 3314. or a 1379  
college-preparatory boarding school established under Chapter 1380  
3328. of the Revised Code. 1381

(2)(a) In any civil action brought against a person in which 1382  
it is alleged and proved that the person violated division (H)(1) 1383  
of this section, the court shall award the prevailing party 1384  
reasonable attorney's fees and costs that the prevailing party 1385  
incurred in the civil action or as a result of the false report 1386  
that was the basis of the violation. 1387

(b) If a person is convicted of or pleads guilty to a 1388  
violation of division (H)(1) of this section, if the subject of 1389  
the false report that was the basis of the violation was charged 1390  
with any violation of a law or ordinance as a result of the false 1391  
report, and if the subject of the false report is found not to be 1392  
guilty of the charges brought against the subject as a result of 1393  
the false report or those charges are dismissed, the court that 1394  
sentences the person for the violation of division (H)(1) of this 1395  
section, as part of the sentence, shall order the person to pay 1396  
restitution to the subject of the false report, in an amount equal 1397  
to reasonable attorney's fees and costs that the subject of the 1398  
false report incurred as a result of or in relation to the 1399  
charges. 1400

<u>Sec. 3328.01. As used in this chapter:</u>	1401
<u>(A) "Child with a disability," "IEP," and "school district of residence" have the same meanings as in section 3323.01 of the Revised Code.</u>	1402 1403 1404
<u>(B) "Eligible student" means a student who is entitled to attend school in a participating school district; is at risk of academic failure; is from a family whose income is below two hundred fifty per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code; and meets at least two of the following additional conditions:</u>	1405 1406 1407 1408 1409 1410
<u>(1) The student has a record of repeated in-school disciplinary actions, suspensions, expulsions, or truancy.</u>	1411 1412
<u>(2) The student has not attained at least a proficient score on the state achievement assessments in English language arts, reading, or mathematics prescribed under section 3301.0710 of the Revised Code, after those assessments have been administered to the student at least once, or the student has not attained at least a score designated by the board of trustees of the college-preparatory boarding school in which the student seeks enrollment under this chapter on an end-of-course examination in English language arts or mathematics prescribed under section 3301.0712 of the Revised Code.</u>	1413 1414 1415 1416 1417 1418 1419 1420 1421 1422
<u>(3) The student is a child with a disability.</u>	1423
<u>(4) The student has been referred for academic intervention services.</u>	1424 1425
<u>(5) The student's parent is a single parent.</u>	1426
<u>(6) The student does not live with the student's custodial parent.</u>	1427 1428
<u>(7) A member of the student's family has been imprisoned, as defined in section 1.05 of the Revised Code.</u>	1429 1430

(8) The student meets any additional criteria prescribed by agreement between the state board of education and the operator of the college-preparatory boarding school in which the student seeks enrollment under this chapter. 1431  
1432  
1433  
1434

(C) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code. 1435  
1436  
1437

(D) "Formula ADM" and "category one through six special education ADM" have the same meanings as in section 3306.02 of the Revised Code. 1438  
1439  
1440

(E) "Operator" means the operator of a college-preparatory boarding school selected under section 3328.11 of the Revised Code. 1441  
1442  
1443

(F) "Participating school district" means either of the following: 1444  
1445

(1) The school district in which a college-preparatory boarding school established under this chapter is located; 1446  
1447

(2) A school district other than one described in division (F)(1) of this section that, pursuant to procedures adopted by the state board of education under section 3328.04 of the Revised Code, agrees to be a participating school district so that eligible students entitled to attend school in that district may enroll in a college-preparatory boarding school established under this chapter. 1448  
1449  
1450  
1451  
1452  
1453  
1454

(G) "State education aid" has the same meaning as in section 3317.02 of the Revised Code. 1455  
1456

**Sec. 3328.02.** Each college-preparatory boarding school 1457  
established under this chapter is a public school and is part of the state's program of education, subject to a charter granted by the state board of education under section 3301.16 of the Revised 1458  
1459  
1460

Code. 1461

Sec. 3328.03. In accordance with Section 22 of Article II, 1462  
Ohio Constitution, no agreement or contract entered into under 1463  
this chapter shall create an obligation of state funds for a 1464  
period longer than two years; however, the general assembly, every 1465  
two years, may authorize renewal of any such obligation. 1466

Sec. 3328.04. The city, exempted village, or local school 1467  
district in which a college-preparatory boarding school 1468  
established under this chapter is located is a participating 1469  
school district under this chapter. Any other city, exempted 1470  
village, or local school district may agree to be a participating 1471  
school district. The state board of education shall adopt 1472  
procedures for districts to agree to be participating school 1473  
districts. 1474

Sec. 3328.11. (A) In accordance with the procedures 1475  
prescribed in division (B) of this section, the state board of 1476  
education shall select a private nonprofit corporation that meets 1477  
the following qualifications to operate each college-preparatory 1478  
boarding school established under this chapter: 1479

(1) The corporation has experience operating a school or 1480  
program similar to the schools authorized under this chapter. 1481

(2) The school or program described in division (A)(1) of 1482  
this section has demonstrated to the satisfaction of the state 1483  
board success in improving the academic performance of students. 1484

(3) The corporation has demonstrated to the satisfaction of 1485  
the state board the following: 1486

(a) That the corporation has the capacity to finance and 1487  
secure private funds for the development of the school authorized 1488  
under this chapter; 1489



(b) That, unless the department of education has secured federal funds to support the school's initial operations, the corporation will apply for, and is reasonably expected to secure, federal funds for that purpose. 1490  
1491  
1492  
1493

(B)(1) Not later than sixty days after the effective date of this section, the state board shall issue a request for proposals from private nonprofit corporations interested in operating a college-preparatory boarding school established under this chapter. If the state board subsequently determines that the establishment of one or more additional college-preparatory boarding schools is advisable, the state board shall issue requests for proposals from private nonprofit corporations interested in operating those additional schools. 1494  
1495  
1496  
1497  
1498  
1499  
1500  
1501  
1502

In all cases, the state board shall select the school's operator from among the qualified responders within one hundred eighty days after the issuance of the request for proposals. If no qualified responder submits a proposal, the state board may issue another request for proposals. 1503  
1504  
1505  
1506  
1507

(2) Each proposal submitted to the state board shall contain the following information: 1508  
1509

(a) The proposed location of the college-preparatory boarding school, which may differ from any location recommended by the state board in the request for proposals; 1510  
1511  
1512

(b) A plan for offering grade five or six in the school's initial year of operation and a plan for increasing the grade levels offered by the school in subsequent years; 1513  
1514  
1515

(c) Any other information about the proposed educational program, facilities, or operations of the school considered necessary by the state board. 1516  
1517  
1518

Sec. 3328.12. The state board of education shall enter into a 1519

contract with the operator of each college-preparatory boarding 1520  
school established under this chapter. The contract shall 1521  
stipulate the following: 1522

(A) The school shall not be established if the operator fails 1523  
to secure federal funds to support the school's initial 1524  
operations, unless the department of education has secured federal 1525  
funds for that purpose. 1526

(B) The school may operate only if and to the extent the 1527  
school holds a valid charter granted by the state board, under 1528  
section 3301.16 of the Revised Code. 1529

(C) The operator shall finance and oversee the acquisition of 1530  
a facility for the school. 1531

(D) The operator shall operate the school in accordance with 1532  
the terms of the proposal accepted by the state board under 1533  
section 3328.11 of the Revised Code, including the plan for 1534  
increasing the grade levels offered by the school. 1535

(E) The school shall comply with the provisions of this 1536  
chapter. 1537

(F) The school shall comply with any other provisions of law 1538  
specified in the contract, the charter granted by the state board, 1539  
and the rules adopted by the state board under section 3328.50 of 1540  
the Revised Code. 1541

(G) The school shall comply with the bylaws adopted by the 1542  
operator under section 3328.13 of the Revised Code. 1543

(H) The school shall meet the academic goals and other 1544  
performance standards specified in the contract. 1545

(I) The state board or the operator may terminate the 1546  
contract in accordance with the procedures specified in the 1547  
contract, which shall include at least a requirement that the 1548  
party seeking termination give prior notice of the intent to 1549

terminate the contract and a requirement that the party receiving 1550  
such notice be granted an opportunity to redress any grievances 1551  
cited in the notice prior to the termination. 1552

(J) If the school closes for any reason, the school's board 1553  
of trustees shall execute the closing in the manner specified in 1554  
the contract. 1555

**Sec. 3328.13.** Each operator of a college-preparatory boarding 1556  
school established under this chapter shall adopt bylaws for the 1557  
oversight and operation of the school that are consistent with the 1558  
provisions of this chapter, the rules adopted under section 1559  
3328.50 of the Revised Code, the contract between the operator and 1560  
the state board of education, and the charter granted to the 1561  
school by the state board. The bylaws shall include procedures for 1562  
the appointment of members of the school's board of trustees, 1563  
whose terms of office shall be as prescribed in section 3328.15 of 1564  
the Revised Code. The bylaws also shall include standards for the 1565  
admission of students to the school and their dismissal from the 1566  
school. The bylaws shall be subject to the approval of the state 1567  
board. 1568

**Sec. 3328.14.** Each operator of a college-preparatory boarding 1569  
school established under this chapter shall adopt a program of 1570  
outreach to inform educators, administrators, boards of education, 1571  
parents, and students in every city, local, and exempted village 1572  
school district about the school and the procedures for admission 1573  
to the school and for becoming a participating school district. 1574

**Sec. 3328.15.** (A) Each college-preparatory boarding school 1575  
established under this chapter shall be governed by a board of 1576  
trustees consisting of up to twenty-five members. Five of those 1577  
members shall be appointed by the governor, with the advice and 1578  
consent of the senate. The governor's appointments may be based on 1579

nonbinding recommendations made by the superintendent of public 1580  
instruction. The remaining members shall be appointed pursuant to 1581  
the bylaws adopted under section 3328.13 of the Revised Code. 1582

(B) The terms of office of the initial members shall be as 1583  
follows: 1584

(1) Two members appointed by the governor shall serve for an 1585  
initial term of three years. 1586

(2) Two members appointed by the governor shall serve for an 1587  
initial term of two years. 1588

(3) One member appointed by the governor shall serve for an 1589  
initial term of one year. 1590

(4) One-third of the members appointed pursuant to the 1591  
bylaws, rounded down to the nearest whole number, shall serve for 1592  
an initial term of three years. 1593

(5) One-third of the members appointed pursuant to the 1594  
bylaws, rounded down to the nearest whole number, shall serve for 1595  
an initial term of two years. 1596

(6) One-third of the members appointed pursuant to the 1597  
bylaws, rounded down to the nearest whole number, shall serve for 1598  
an initial term of one year. 1599

(7) Any remaining members appointed pursuant to the bylaws 1600  
shall serve for an initial term of one year. 1601

Thereafter the terms of office of all members shall be for 1602  
three years. 1603

The beginning date and ending date of terms of office shall 1604  
be as prescribed in the bylaws adopted under section 3328.13 of 1605  
the Revised Code. 1606

(C) Vacancies on the board shall be filled in the same manner 1607  
as the initial appointments. A member appointed to an unexpired 1608

term shall serve for the remainder of that term and may be 1609  
reappointed subject to division (D) of this section. 1610

(D) No member may serve for more than three consecutive 1611  
three-year terms. 1612

(E) The officers of the board shall be selected by and from 1613  
among the members of the board. 1614

(F) Compensation for the members of the board, if any, shall 1615  
be as prescribed in the bylaws adopted under section 3328.13 of 1616  
the Revised Code. 1617

**Sec. 3328.17.** Employees of a college-preparatory boarding 1618  
school established under this chapter may organize and 1619  
collectively bargain pursuant to Chapter 4117. of the Revised 1620  
Code. Notwithstanding division (D)(1) of section 4117.06 of the 1621  
Revised Code, a unit containing teaching and nonteaching employees 1622  
employed under this section may be considered an appropriate unit. 1623

**Sec. 3328.18.** (A) As used in this section, "license" has the 1624  
same meaning as in section 3319.31 of the Revised Code. 1625

(B) If a person who is employed by a college-preparatory 1626  
boarding school established under this chapter or its operator is 1627  
arrested, summoned, or indicted for an alleged violation of an 1628  
offense listed in division (C) of section 3319.31 of the Revised 1629  
Code, if the person holds a license, or an offense listed in 1630  
division (B)(1) of section 3319.39 of the Revised Code, if the 1631  
person does not hold a license, the chief administrator of the 1632  
school in which that person works shall suspend that person from 1633  
all duties that require the care, custody, or control of a child 1634  
during the pendency of the criminal action against the person. If 1635  
the person who is arrested, summoned, or indicted for an alleged 1636  
violation of an offense listed in division (C) of section 3319.31 1637  
or division (B)(1) of section 3319.39 of the Revised Code is the 1638

chief administrator of the school, the board of trustees of the 1639  
school shall suspend the chief administrator from all duties that 1640  
require the care, custody, or control of a child. 1641

(C) When a person who holds a license is suspended in 1642  
accordance with this section, the chief administrator or board 1643  
that imposed the suspension promptly shall report the person's 1644  
suspension to the department of education. The report shall 1645  
include the offense for which the person was arrested, summoned, 1646  
or indicted. 1647

**Sec. 3328.19.** (A) As used in this section: 1648

(1) "Conduct unbecoming to the teaching profession" shall be 1649  
as described in rules adopted by the state board of education. 1650

(2) "Intervention in lieu of conviction" means intervention 1651  
in lieu of conviction under section 2951.041 of the Revised Code. 1652

(3) "License" has the same meaning as in section 3319.31 of 1653  
the Revised Code. 1654

(4) "Pre-trial diversion program" means a pre-trial diversion 1655  
program under section 2935.36 of the Revised Code or a similar 1656  
diversion program under rules of a court. 1657

(B) The chief administrator of each college-preparatory 1658  
boarding school established under this chapter, or the president 1659  
or chairperson of the board of trustees of the school if division 1660

(C) of this section applies, shall promptly submit to the 1661  
superintendent of public instruction the information prescribed in 1662  
division (D) of this section when any of the following conditions 1663  
applies to a person employed to work in the school who holds a 1664  
license issued by the state board of education: 1665

(1) The chief administrator, or president or chairperson, 1666  
knows that the employee has pleaded guilty to, has been found 1667  
guilty by a jury or court of, has been convicted of, has been 1668

found to be eligible for intervention in lieu of conviction for, 1669  
or has agreed to participate in a pre-trial diversion program for 1670  
an offense described in division (B)(2) or (C) of section 3319.31 1671  
or division (B)(1) of section 3319.39 of the Revised Code. 1672

(2) The board of trustees of the school, or the operator, has 1673  
initiated termination or nonrenewal proceedings against, has 1674  
terminated, or has not renewed the contract of the employee 1675  
because the board or operator has reasonably determined that the 1676  
employee has committed an act that is unbecoming to the teaching 1677  
profession or an offense described in division (B)(2) or (C) of 1678  
section 3319.31 or division (B)(1) of section 3319.39 of the 1679  
Revised Code. 1680

(3) The employee has resigned under threat of termination or 1681  
nonrenewal as described in division (B)(2) of this section. 1682

(4) The employee has resigned because of or in the course of 1683  
an investigation by the board or operator regarding whether the 1684  
employee has committed an act that is unbecoming to the teaching 1685  
profession or an offense described in division (B)(2) or (C) of 1686  
section 3319.31 or division (B)(1) of section 3319.39 of the 1687  
Revised Code. 1688

(C) If the employee to whom any of the conditions prescribed 1689  
in divisions (B)(1) to (4) of this section applies is the chief 1690  
administrator of the school, the president or chairperson of the 1691  
board of trustees of the school shall make the report required 1692  
under this section. 1693

(D) If a report is required under this section, the chief 1694  
administrator, or president or chairperson, shall submit to the 1695  
superintendent of public instruction the name and social security 1696  
number of the employee about whom the information is required and 1697  
a factual statement regarding any of the conditions prescribed in 1698  
divisions (B)(1) to (4) of this section that apply to the 1699

employee. 1700

(E) A determination made by the board or operator as 1701  
described in division (B)(2) of this section or a termination, 1702  
nonrenewal, resignation, or other separation described in 1703  
divisions (B)(2) to (4) of this section does not create a 1704  
presumption of the commission or lack of the commission by the 1705  
employee of an act unbecoming to the teaching profession or an 1706  
offense described in division (B)(2) or (C) of section 3319.31 or 1707  
division (B)(1) of section 3319.39 of the Revised Code. 1708

(F) No individual required to submit a report under division 1709  
(B) of this section shall knowingly fail to comply with that 1710  
division. 1711

(G) An individual who provides information to the 1712  
superintendent of public instruction in accordance with this 1713  
section in good faith shall be immune from any civil liability 1714  
that otherwise might be incurred or imposed for injury, death, or 1715  
loss to person or property as a result of the provision of that 1716  
information. 1717

**Sec. 3328.191.** The board of trustees of each 1718  
college-preparatory boarding school established under this chapter 1719  
shall require that the reports of any investigation by the board 1720  
or by the school's operator of an employee who works in the 1721  
school, regarding whether the employee has committed an act or 1722  
offense for which the chief administrator of the school or the 1723  
president or chairperson of the board is required to make a report 1724  
to the superintendent of public instruction under section 3328.19 1725  
of the Revised Code, be kept in the employee's personnel file. If, 1726  
after an investigation under division (A) of section 3319.311 of 1727  
the Revised Code, the superintendent of public instruction 1728  
determines that the results of that investigation do not warrant 1729  
initiating action under section 3319.31 of the Revised Code, the 1730



board shall require the reports of the investigation to be moved 1731  
from the employee's personnel file to a separate public file. 1732

Sec. 3328.192. Notwithstanding any provision to the contrary 1733  
in Chapter 4117. of the Revised Code, the provisions of sections 1734  
3328.19 and 3328.191 of the Revised Code prevail over any 1735  
conflicting provisions of a collective bargaining agreement or 1736  
contract for employment entered into on or after the effective 1737  
date of this section. 1738

Sec. 3328.193. (A) As used in this section, "license" has the 1739  
same meaning as in section 3319.31 of the Revised Code. 1740

(B) No employee of a college-preparatory boarding school 1741  
established under this chapter or its operator shall do either of 1742  
the following: 1743

(1) Knowingly make a false report to the chief administrator 1744  
of the school, or the chief administrator's designee, alleging 1745  
misconduct by another employee of the school or its operator; 1746

(2) Knowingly cause the chief administrator, or the chief 1747  
administrator's designee, to make a false report of the alleged 1748  
misconduct to the superintendent of public instruction or the 1749  
state board of education. 1750

(C) Any employee of a college-preparatory boarding school 1751  
established under this chapter or its operator who in good faith 1752  
reports to the chief administrator of the school, or the chief 1753  
administrator's designee, information about alleged misconduct 1754  
committed by another employee of the school or operator shall be 1755  
immune from any civil liability that otherwise might be incurred 1756  
or imposed for injury, death, or loss to person or property as a 1757  
result of the reporting of that information. 1758

If the alleged misconduct involves a person who holds a 1759

license but the chief administrator is not required to submit a 1760  
report to the superintendent of public instruction under section 1761  
3328.19 of the Revised Code and the chief administrator, or the 1762  
chief administrator's designee, in good faith reports the alleged 1763  
misconduct to the superintendent of public instruction or the 1764  
state board, the chief administrator, or the chief administrator's 1765  
designee, shall be immune from any civil liability that otherwise 1766  
might be incurred or imposed for injury, death, or loss to person 1767  
or property as a result of the reporting of that information. 1768

(D)(1) In any civil action brought against a person in which 1769  
it is alleged and proved that the person violated division (B) of 1770  
this section, the court shall award the prevailing party 1771  
reasonable attorney's fees and costs that the prevailing party 1772  
incurred in the civil action or as a result of the false report 1773  
that was the basis of the violation. 1774

(2) If a person is convicted of or pleads guilty to a 1775  
violation of division (B) of this section, if the subject of the 1776  
false report that was the basis of the violation was charged with 1777  
any violation of a law or ordinance as a result of the false 1778  
report, and if the subject of the false report is found not to be 1779  
guilty of the charges brought against the subject as a result of 1780  
the false report or those charges are dismissed, the court that 1781  
sentences the person for the violation of division (B) of this 1782  
section, as part of the sentence, shall order the person to pay 1783  
restitution to the subject of the false report, in an amount equal 1784  
to reasonable attorney's fees and costs that the subject of the 1785  
false report incurred as a result of or in relation to the 1786  
charges. 1787

**Sec. 3328.20. (A) As used in this section:** 1788

(1) "Designated official" means the chief administrator of a 1789  
college-preparatory boarding school established under this 1790

chapter, or the chief administrator's designee. 1791

(2) "Essential school services" means services provided by a 1792  
private company under contract with a college-preparatory boarding 1793  
school established under this chapter that the chief administrator 1794  
of the school has determined are necessary for the operation of 1795  
the school and that would need to be provided by persons employed 1796  
by the school or its operator if the services were not provided by 1797  
the private company. 1798

(3) "License" has the same meaning as in section 3319.31 of 1799  
the Revised Code. 1800

(B) This section applies to any person who is an employee of 1801  
a private company under contract with a college-preparatory 1802  
boarding school established under this chapter to provide 1803  
essential school services and who will work in the school in a 1804  
position that does not require a license issued by the state board 1805  
of education, is not for the operation of a vehicle for pupil 1806  
transportation, and that involves routine interaction with a child 1807  
or regular responsibility for the care, custody, or control of a 1808  
child. 1809

(C) No college-preparatory boarding school established under 1810  
this chapter shall permit a person to whom this section applies to 1811  
work in the school, unless one of the following applies to the 1812  
person: 1813

(1) The person's employer presents proof of both of the 1814  
following to the designated official: 1815

(a) That the person has been the subject of a criminal 1816  
records check conducted in accordance with division (D) of this 1817  
section within the five-year period immediately prior to the date 1818  
on which the person will begin working in the school; 1819

(b) That the criminal records check indicates that the person 1820  
has not been convicted of or pleaded guilty to any offense 1821

described in division (B)(1) of section 3319.39 of the Revised Code. 1822  
1823

(2) During any period of time in which the person will have routine interaction with a child or regular responsibility for the care, custody, or control of a child, the designated official has arranged for an employee of the school to be present in the same room with the child or, if outdoors, to be within a thirty-yard radius of the child or to have visual contact with the child. 1824  
1825  
1826  
1827  
1828  
1829

(D) Any private company that has been hired or seeks to be hired by a college-preparatory boarding school established under this chapter to provide essential school services may request the bureau of criminal identification and investigation to conduct a criminal records check of any of its employees for the purpose of complying with division (C)(1) of this section. Each request for a criminal records check under this division shall be made to the superintendent of the bureau in the manner prescribed in section 3319.39 of the Revised Code. Upon receipt of a request, the bureau shall conduct the criminal records check in accordance with section 109.572 of the Revised Code as if the request had been made under section 3319.39 of the Revised Code. 1830  
1831  
1832  
1833  
1834  
1835  
1836  
1837  
1838  
1839  
1840  
1841

Notwithstanding division (H) of section 109.57 of the Revised Code, the private company may share the results of any criminal records check conducted under this division with the designated official for the purpose of complying with division (C)(1) of this section, but in no case shall the designated official release that information to any other person. 1842  
1843  
1844  
1845  
1846  
1847

**Sec. 3328.21.** (A) Any eligible student may apply for admission to a college-preparatory boarding school established under this chapter in a grade level offered by the school that is appropriate for the student and shall be admitted to the school in that grade level to the extent the student's admission is within 1848  
1849  
1850  
1851  
1852

the capacity of the school as established by the school's board of trustees, subject to division (B) of this section. If more eligible students apply for admission than the number of students permitted by the capacity established by the board of trustees, admission shall be by lot.

(B) In the first year of operation, each school established under this chapter shall offer only grade five or six and shall not admit more than eighty students to the school. In each subsequent year of operation, the school may add additional grade levels as specified in the contract under section 3328.12 of the Revised Code, but at no time shall the school's total student population exceed four hundred students.

**Sec. 3328.22.** The educational program of a college-preparatory boarding school established under this chapter shall include at least all of the following:

(A) A remedial curriculum for students in grades lower than grade nine;

(B) A college-preparatory curriculum for high school students that, at a minimum, shall comply with section 3313.603 of the Revised Code as that section applies to school districts;

(C) Extracurricular activities, including athletic and cultural activities;

(D) College admission counseling;

(E) Health and mental health services;

(F) Tutoring services;

(G) Community services opportunities;

(H) A residential student life program.

**Sec. 3328.23.** (A) A college-preparatory boarding school

established under this chapter and the school's operator shall 1881  
comply with Chapter 3323. of the Revised Code as if the school 1882  
were a school district. For each child with a disability enrolled 1883  
in the school for whom an IEP has been developed, the school and 1884  
its operator shall verify in the manner prescribed by the 1885  
department of education that the school is providing the services 1886  
required under the child's IEP. 1887

(B) The school district in which a child with a disability 1888  
enrolled in the college-preparatory boarding school is entitled to 1889  
attend school and the child's school district of residence, if 1890  
different, are not obligated to provide the student with a free 1891  
appropriate public education under Chapter 3323. of the Revised 1892  
Code for as long as the child is enrolled in the 1893  
college-preparatory boarding school. 1894

**Sec. 3328.24.** A college-preparatory boarding school 1895  
established under this chapter, its operator, and its board of 1896  
trustees shall comply with sections 3301.0710, 3301.0711, 1897  
3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as 1898  
if the school and the operator were a school district and the 1899  
school's board of trustees were a district board of education. 1900

**Sec. 3328.25.** (A) The board of trustees of a 1901  
college-preparatory boarding school established under this chapter 1902  
shall grant a diploma to any student enrolled in the school to 1903  
whom all of the following apply: 1904

(1) The student has successfully completed the school's high 1905  
school curriculum or the IEP developed for the student by the 1906  
school pursuant to section 3323.08 of the Revised Code or has 1907  
qualified under division (D) or (F) of section 3313.603 of the 1908  
Revised Code, provided that the school shall not require a student 1909  
to remain in school for any specific number of semesters or other 1910

terms if the student completes the required curriculum early; 1911

(2) Subject to section 3313.614 of the Revised Code, the 1912  
student has met the assessment requirements of division (A)(2)(a) 1913  
or (b) of this section, as applicable. 1914

(a) If the student entered ninth grade prior to the date 1915  
prescribed by rule of the state board of education under division 1916  
(E)(2) of section 3301.0712 of the Revised Code, the student 1917  
either: 1918

(i) Has attained at least the applicable scores designated 1919  
under division (B)(1) of section 3301.0710 of the Revised Code on 1920  
all the assessments prescribed by that division unless division 1921  
(L) of section 3313.61 of the Revised Code applies to the student; 1922

(ii) Has satisfied the alternative conditions prescribed in 1923  
section 3313.615 of the Revised Code. 1924

(b) If the person entered ninth grade on or after the date 1925  
prescribed by rule of the state board under division (E)(2) of 1926  
section 3301.0712 of the Revised Code, the student has attained on 1927  
the entire assessment system prescribed under division (B)(2) of 1928  
section 3301.0710 of the Revised Code at least the required 1929  
passing composite score, designated under division (C)(1) of 1930  
section 3301.0712 of the Revised Code, except to the extent that 1931  
the student is excused from some portion of that assessment system 1932  
pursuant to division (L) of section 3313.61 of the Revised Code. 1933

(3) The student is not eligible to receive an honors diploma 1934  
granted under division (B) of this section. 1935

No diploma shall be granted under this division to anyone 1936  
except as provided in this division. 1937

(B) In lieu of a diploma granted under division (A) of this 1938  
section, the board of trustees shall grant an honors diploma, in 1939  
the same manner that boards of education of school districts grant 1940

honors diplomas under division (B) of section 3313.61 of the 1941  
Revised Code, to any student enrolled in the school who 1942  
accomplishes all of the following: 1943

(1) Successfully completes the school's high school 1944  
curriculum or the IEP developed for the student by the school 1945  
pursuant to section 3323.08 of the Revised Code; 1946

(2) Subject to section 3313.614 of the Revised Code, has met 1947  
the assessment requirements of division (B)(2)(a) or (b) of this 1948  
section, as applicable. 1949

(a) If the student entered ninth grade prior to the date 1950  
prescribed by rule of the state board under division (E)(2) of 1951  
section 3301.0712 of the Revised Code, the student either: 1952

(i) Has attained at least the applicable scores designated 1953  
under division (B)(1) of section 3301.0710 of the Revised Code on 1954  
all the assessments prescribed under that division; 1955

(ii) Has satisfied the alternative conditions prescribed in 1956  
section 3313.615 of the Revised Code. 1957

(b) If the person entered ninth grade on or after the date 1958  
prescribed by rule of the state board under division (E)(2) of 1959  
section 3301.0712 of the Revised Code, the student has attained on 1960  
the entire assessment system prescribed under division (B)(2) of 1961  
section 3301.0710 of the Revised Code at least the required 1962  
passing composite score, designated under division (C)(1) of 1963  
section 3301.0712 of the Revised Code. 1964

(3) Has met the additional criteria for granting an honors 1965  
diploma prescribed by the state board under division (B) of 1966  
section 3313.61 of the Revised Code for the granting of honors 1967  
diplomas by school districts. 1968

An honors diploma shall not be granted to a student who is 1969  
subject to the Ohio core curriculum prescribed in division (C) of 1970



section 3313.603 of the Revised Code but elects the option of 1971  
division (D) or (F) of that section. No honors diploma shall be 1972  
granted to anyone failing to comply with this division and not 1973  
more than one honors diploma shall be granted to any student under 1974  
this division. 1975

(C) A diploma or honors diploma awarded under this section 1976  
shall be signed by the presiding officer of the board of trustees. 1977  
Each diploma shall bear the date of its issue and be in such form 1978  
as the board of trustees prescribes. 1979

(D) Upon granting a diploma to a student under this section, 1980  
the presiding officer of the board of trustees shall provide 1981  
notice of receipt of the diploma to the board of education of the 1982  
city, exempted village, or local school district where the student 1983  
is entitled to attend school when not residing at the 1984  
college-preparatory boarding school. The notice shall indicate the 1985  
type of diploma granted. 1986

**Sec. 3328.26.** (A) The department of education shall issue an 1987  
annual report card for each college-preparatory boarding school 1988  
established under this chapter that includes all information 1989  
applicable to school buildings under section 3302.03 of the 1990  
Revised Code. 1991

(B) For each student enrolled in the school, the department 1992  
shall combine data regarding the academic performance of that 1993  
student with comparable data from the school district in which the 1994  
student is entitled to attend school for the purpose of 1995  
calculating the performance of the district as a whole on the 1996  
report card issued for the district under section 3302.03 of the 1997  
Revised Code. 1998

(C) Each college-preparatory boarding school and its operator 1999  
shall comply with sections 3302.04 and 3302.041 of the Revised 2000  
Code, except that any action required to be taken by a school 2001

district pursuant to those sections shall be taken by the school. 2002

Sec. 3328.31. Each college-preparatory boarding school 2003  
established under this chapter shall report to the department of 2004  
education, in the form and manner prescribed by the department, 2005  
the following information: 2006

(A) The total number of students enrolled in the school; 2007

(B) The number of students enrolled in the school who are 2008  
receiving special education and related services pursuant to an 2009  
IEP; 2010

(C) The city, exempted village, or local school district in 2011  
which each student reported under division (A) of this section is 2012  
entitled to attend school; 2013

(D) Any additional information the department determines 2014  
necessary to make payments to the school under this chapter. 2015

Sec. 3328.32. The city, exempted village, or local school 2016  
district in which each child enrolled in a college-preparatory 2017  
boarding school established under this chapter is entitled to 2018  
attend school shall count that child in the district's average 2019  
daily membership and in the district's category one through six 2020  
special education ADM, as appropriate, as reported under divisions 2021  
(A) and (B)(5) to (10) of section 3317.03 of the Revised Code. 2022

The department of education shall count that child in the 2023  
district's formula ADM. 2024

Sec. 3328.33. For each child enrolled in a 2025  
college-preparatory boarding school, as reported under section 2026  
3328.31 of the Revised Code, the department of education shall 2027  
deduct from the state education aid and, if necessary, from the 2028  
payment under sections 321.24 and 323.156 of the Revised Code, for 2029  
the city, exempted village, or local school district in which the 2030

child is entitled to attend school an amount equal to eighty-five 2031  
per cent of the operating expenditure per pupil of that district. 2032

As used in this section, a district's "operating expenditure 2033  
per pupil" is the total amount of state payments and other 2034  
nonfederal revenue spent by the district for operating expenses 2035  
during the previous fiscal year, divided by the district's formula 2036  
ADM for the previous fiscal year. 2037

Sec. 3328.34. (A) For each child enrolled in a 2038  
college-preparatory boarding school, as reported under section 2039  
3328.31 of the Revised Code, the department of education shall pay 2040  
to the school the sum of the amount deducted from a participating 2041  
school district's account for that child under section 3328.33 of 2042  
the Revised Code plus the per-pupil boarding amount specified in 2043  
division (B) of this section. 2044

(B) For the first fiscal year in which a college-preparatory 2045  
boarding school may be established under this chapter, the 2046  
"per-pupil boarding amount" is twenty-five thousand dollars. For 2047  
each fiscal year thereafter, that amount shall be adjusted by the 2048  
rate of inflation, as measured by the consumer price index (all 2049  
urban consumers, all items) prepared by the bureau of labor 2050  
statistics of the United States department of labor, for the 2051  
previous twelve-month period. 2052

(C)(1) Notwithstanding division (A) of this section, if, in 2053  
any fiscal year, the operator of a college-preparatory boarding 2054  
school receives federal funds for the purpose of supporting the 2055  
school's operations, the amount of those federal funds shall be 2056  
deducted from the total per-pupil boarding amount for all enrolled 2057  
students paid by the department to the school for that fiscal 2058  
year. Any portion of the total per-pupil boarding amount for all 2059  
enrolled students remaining after the deduction of the federal 2060

funds shall be paid by the department to the school from state 2061  
funds appropriated to the department. 2062

(2) Notwithstanding division (A) of this section, if, in any 2063  
fiscal year, the department receives federal funds for the purpose 2064  
of supporting the operations of a college-preparatory boarding 2065  
school, the department shall use those federal funds first to pay 2066  
the school the total per-pupil boarding amount for all enrolled 2067  
students for that fiscal year. Any portion of the total per-pupil 2068  
boarding amount for all enrolled students remaining after the use 2069  
of the federal funds shall be paid by the department to the school 2070  
from state funds appropriated to the department. 2071

(3) If any federal funds are used for the purpose prescribed 2072  
in division (C)(1) or (2) of this section, the department shall 2073  
comply with all requirements upon which the acceptance of the 2074  
federal funds is conditioned, including any requirements set forth 2075  
in the funding application submitted by the operator or the 2076  
department and, to the extent sufficient funds are appropriated by 2077  
the general assembly, any requirements regarding maintenance of 2078  
effort in expenditures. 2079

**Sec. 3328.35.** To the extent permitted by federal law, the 2080  
department of education shall include college-preparatory boarding 2081  
schools established under this chapter in its annual allocation of 2082  
federal moneys under Title I of the "Elementary and Secondary 2083  
Education Act of 1965," 20 U.S.C. 6301, et seq. The department may 2084  
apply for any other federal moneys that may be used to support the 2085  
operations of college-preparatory boarding schools established 2086  
under this chapter. 2087

**Sec. 3328.36.** A college-preparatory boarding school 2088  
established under this chapter shall be considered a school 2089  
district and its board of trustees, on behalf of the school's 2090

operator, shall be considered a board of education for the purpose 2091  
of applying to any state or federal agency for grants that a 2092  
school district or public school may receive under federal or 2093  
state law or any appropriations act of the general assembly. The 2094  
college-preparatory boarding school and its operator may apply to 2095  
any private entity for funds. 2096

Sec. 3328.41. Each participating school district shall 2097  
provide transportation on a weekly basis for each student enrolled 2098  
in a college-preparatory boarding school established under this 2099  
chapter who is entitled to attend school in the district to and 2100  
from that college-preparatory boarding school. 2101

Sec. 3328.45. If the state board of education determines that 2102  
a college-preparatory boarding school established under this 2103  
chapter is not in compliance with any provision of this chapter or 2104  
the terms of the contract entered into under section 3328.12 of 2105  
the Revised Code, or that the school has failed to meet the 2106  
academic goals or performance standards specified in that 2107  
contract, the state board may initiate the termination procedures 2108  
specified in the contract. No termination shall take effect prior 2109  
to the end of a school year. Upon the effective date of a 2110  
termination, the school shall close. 2111

(B) If a college-preparatory boarding school is required to 2112  
close under division (A) of this section or closes for any other 2113  
reason, the school's board of trustees shall execute the closing 2114  
as provided in the contract under section 3328.12 of the Revised 2115  
Code. 2116

Sec. 3328.50. The state board of education shall adopt rules 2117  
in accordance with Chapter 119. of the Revised Code prescribing 2118  
procedures necessary for the implementation of this chapter. 2119

Sec. 3328.99. (A) Whoever violates division (F) of section 3328.19 of the Revised Code shall be punished as follows: 2120  
2121

(1) Except as otherwise provided in division (A)(2) of this section, the person is guilty of a misdemeanor of the fourth degree. 2122  
2123  
2124

(2) The person is guilty of a misdemeanor of the first degree if both of the following conditions apply: 2125  
2126

(a) The employee who is the subject of the report that the person fails to submit was required to be reported for the commission or alleged commission of an act or offense involving the infliction on a child of any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child. 2127  
2128  
2129  
2130  
2131  
2132

(b) During the period between the violation of division (F) of section 3328.19 of the Revised Code and the conviction of or plea of guilty by the person for that violation, the employee who is the subject of the report that the person fails to submit inflicts on any child attending a school district, educational service center, public or nonpublic school, or county board of developmental disabilities where the employee works any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child. 2133  
2134  
2135  
2136  
2137  
2138  
2139  
2140  
2141

(B) Whoever violates division (B) of section 3328.193 of the Revised Code is guilty of a misdemeanor of the first degree. 2142  
2143

**Sec. 4117.01.** As used in this chapter: 2144

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers. 2145  
2146  
2147

(B) "Public employer" means the state or any political 2148

subdivision of the state located entirely within the state, 2149  
including, without limitation, any municipal corporation with a 2150  
population of at least five thousand according to the most recent 2151  
federal decennial census; county; township with a population of at 2152  
least five thousand in the unincorporated area of the township 2153  
according to the most recent federal decennial census; school 2154  
district; governing authority of a community school established 2155  
under Chapter 3314. of the Revised Code; a college-preparatory 2156  
boarding school established under Chapter 3328. of the Revised 2157  
Code or its operator; state institution of higher learning; public 2158  
or special district; state agency, authority, commission, or 2159  
board; or other branch of public employment. 2160

(C) "Public employee" means any person holding a position by 2161  
appointment or employment in the service of a public employer, 2162  
including any person working pursuant to a contract between a 2163  
public employer and a private employer and over whom the national 2164  
labor relations board has declined jurisdiction on the basis that 2165  
the involved employees are employees of a public employer, except: 2166

(1) Persons holding elective office; 2167

(2) Employees of the general assembly and employees of any 2168  
other legislative body of the public employer whose principal 2169  
duties are directly related to the legislative functions of the 2170  
body; 2171

(3) Employees on the staff of the governor or the chief 2172  
executive of the public employer whose principal duties are 2173  
directly related to the performance of the executive functions of 2174  
the governor or the chief executive; 2175

(4) Persons who are members of the Ohio organized militia, 2176  
while training or performing duty under section 5919.29 or 5923.12 2177  
of the Revised Code; 2178

(5) Employees of the state employment relations board, 2179

including those employees of the state employment relations board	2180
utilized by the state personnel board of review in the exercise of	2181
the powers and the performance of the duties and functions of the	2182
state personnel board of review;	2183
(6) Confidential employees;	2184
(7) Management level employees;	2185
(8) Employees and officers of the courts, assistants to the	2186
attorney general, assistant prosecuting attorneys, and employees	2187
of the clerks of courts who perform a judicial function;	2188
(9) Employees of a public official who act in a fiduciary	2189
capacity, appointed pursuant to section 124.11 of the Revised	2190
Code;	2191
(10) Supervisors;	2192
(11) Students whose primary purpose is educational training,	2193
including graduate assistants or associates, residents, interns,	2194
or other students working as part-time public employees less than	2195
fifty per cent of the normal year in the employee's bargaining	2196
unit;	2197
(12) Employees of county boards of election;	2198
(13) Seasonal and casual employees as determined by the state	2199
employment relations board;	2200
(14) Part-time faculty members of an institution of higher	2201
education;	2202
(15) Participants in a work activity, developmental activity,	2203
or alternative work activity under sections 5107.40 to 5107.69 of	2204
the Revised Code who perform a service for a public employer that	2205
the public employer needs but is not performed by an employee of	2206
the public employer if the participant is not engaged in paid	2207
employment or subsidized employment pursuant to the activity;	2208
(16) Employees included in the career professional service of	2209



the department of transportation under section 5501.20 of the Revised Code;

(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code who are not subject to a collective bargaining agreement on June 1, 2005+.

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation

to which the public employer was a party, has declined to engage 2241  
in collective bargaining with members of a police or fire 2242  
department on the basis that those members are supervisors, those 2243  
members of a police or fire department do not have the rights 2244  
specified in this chapter for the purposes of future collective 2245  
bargaining. The state employment relations board shall decide all 2246  
disputes concerning the application of division (F)(2) of this 2247  
section. 2248

(3) With respect to faculty members of a state institution of 2249  
higher education, heads of departments or divisions are 2250  
supervisors; however, no other faculty member or group of faculty 2251  
members is a supervisor solely because the faculty member or group 2252  
of faculty members participate in decisions with respect to 2253  
courses, curriculum, personnel, or other matters of academic 2254  
policy; 2255

(4) No teacher as defined in section 3319.09 of the Revised 2256  
Code shall be designated as a supervisor or a management level 2257  
employee unless the teacher is employed under a contract governed 2258  
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 2259  
is assigned to a position for which a license deemed to be for 2260  
administrators under state board rules is required pursuant to 2261  
section 3319.22 of the Revised Code. 2262

(G) "To bargain collectively" means to perform the mutual 2263  
obligation of the public employer, by its representatives, and the 2264  
representatives of its employees to negotiate in good faith at 2265  
reasonable times and places with respect to wages, hours, terms, 2266  
and other conditions of employment and the continuation, 2267  
modification, or deletion of an existing provision of a collective 2268  
bargaining agreement, with the intention of reaching an agreement, 2269  
or to resolve questions arising under the agreement. "To bargain 2270  
collectively" includes executing a written contract incorporating 2271  
the terms of any agreement reached. The obligation to bargain 2272

collectively does not mean that either party is compelled to agree 2273  
to a proposal nor does it require the making of a concession. 2274

(H) "Strike" means continuous concerted action in failing to 2275  
report to duty; willful absence from one's position; or stoppage 2276  
of work in whole from the full, faithful, and proper performance 2277  
of the duties of employment, for the purpose of inducing, 2278  
influencing, or coercing a change in wages, hours, terms, and 2279  
other conditions of employment. "Strike" does not include a 2280  
stoppage of work by employees in good faith because of dangerous 2281  
or unhealthful working conditions at the place of employment that 2282  
are abnormal to the place of employment. 2283

(I) "Unauthorized strike" includes, but is not limited to, 2284  
concerted action during the term or extended term of a collective 2285  
bargaining agreement or during the pendency of the settlement 2286  
procedures set forth in section 4117.14 of the Revised Code in 2287  
failing to report to duty; willful absence from one's position; 2288  
stoppage of work; slowdown, or abstinence in whole or in part from 2289  
the full, faithful, and proper performance of the duties of 2290  
employment for the purpose of inducing, influencing, or coercing a 2291  
change in wages, hours, terms, and other conditions of employment. 2292  
"Unauthorized strike" includes any such action, absence, stoppage, 2293  
slowdown, or abstinence when done partially or intermittently, 2294  
whether during or after the expiration of the term or extended 2295  
term of a collective bargaining agreement or during or after the 2296  
pendency of the settlement procedures set forth in section 4117.14 2297  
of the Revised Code. 2298

(J) "Professional employee" means any employee engaged in 2299  
work that is predominantly intellectual, involving the consistent 2300  
exercise of discretion and judgment in its performance and 2301  
requiring knowledge of an advanced type in a field of science or 2302  
learning customarily acquired by a prolonged course in an 2303  
institution of higher learning or a hospital, as distinguished 2304

from a general academic education or from an apprenticeship; or an 2305  
employee who has completed the courses of specialized intellectual 2306  
instruction and is performing related work under the supervision 2307  
of a professional person to become qualified as a professional 2308  
employee. 2309

(K) "Confidential employee" means any employee who works in 2310  
the personnel offices of a public employer and deals with 2311  
information to be used by the public employer in collective 2312  
bargaining; or any employee who works in a close continuing 2313  
relationship with public officers or representatives directly 2314  
participating in collective bargaining on behalf of the employer. 2315

(L) "Management level employee" means an individual who 2316  
formulates policy on behalf of the public employer, who 2317  
responsibly directs the implementation of policy, or who may 2318  
reasonably be required on behalf of the public employer to assist 2319  
in the preparation for the conduct of collective negotiations, 2320  
administer collectively negotiated agreements, or have a major 2321  
role in personnel administration. Assistant superintendents, 2322  
principals, and assistant principals whose employment is governed 2323  
by section 3319.02 of the Revised Code are management level 2324  
employees. With respect to members of a faculty of a state 2325  
institution of higher education, no person is a management level 2326  
employee because of the person's involvement in the formulation or 2327  
implementation of academic or institution policy. 2328

(M) "Wages" means hourly rates of pay, salaries, or other 2329  
forms of compensation for services rendered. 2330

(N) "Member of a police department" means a person who is in 2331  
the employ of a police department of a municipal corporation as a 2332  
full-time regular police officer as the result of an appointment 2333  
from a duly established civil service eligibility list or under 2334  
section 737.15 or 737.16 of the Revised Code, a full-time deputy 2335  
sheriff appointed under section 311.04 of the Revised Code, a 2336

township constable appointed under section 509.01 of the Revised Code, or a member of a township police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

**Section 2.** That existing sections 109.57, 3313.61, 3317.03, 3319.31, 3319.311, and 4117.01 of the Revised Code are hereby repealed.

**Section 3.** Sections 109.57 and 3317.03 of the Revised Code are presented in this act as composites of the sections as amended by both Am. Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act.