

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 143

Representatives Stinziano, O'Brien

**Cosponsors: Representatives Grossman, Mallory, Milkovich, Fende,
Hagan, R., Foley, Clyde, Letson, Yuko, Reece, Combs, Murray, Garland,
Antonio, Patmon, Henne**

—

A BILL

To amend sections 3314.03, 3319.303, and 3326.11 and 1
to enact sections 3313.538, 3314.142, 3326.26, 2
3707.51, and 3707.52 of the Revised Code with 3
regard to head injuries and concussions in youth 4
sports. 5

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

Section 1. That sections 3314.03, 3319.303, and 3326.11 be 6
amended and sections 3313.538, 3314.142, 3326.26, 3707.51, and 7
3707.52 of the Revised Code be enacted to read as follows: 8

Sec. 3313.538. (A) No school district board of education or 9
governing authority of a chartered or nonchartered nonpublic 10
school shall permit a student to participate in or practice for 11
interscholastic athletics until the student has submitted, to a 12
school official designated by the board or governing authority, a 13
form signed by the student's parent or guardian stating that the 14
student and the student's parent or guardian have received the 15
concussion and head injury information sheet required by section 16
3707.52 of the Revised Code. 17

(B) No school district board or governing authority of a chartered or nonchartered nonpublic school shall permit an individual to coach interscholastic athletics unless the individual holds a pupil-activity program permit issued under section 3319.303 of the Revised Code for coaching interscholastic athletics.

(C) A coach or school official of a school district or chartered or nonchartered nonpublic school shall remove from practice or competition a student suspected of having sustained a concussion or head injury during a practice or game of an interscholastic sport.

(D) A coach or school official of a school district or chartered or nonchartered nonpublic school shall not allow a student removed from practice or competition on suspicion of a concussion or head injury to return to practice or competition on the same day the student is removed from practice or competition. Thereafter, a coach or school official shall not allow the student to return to practice or competition until both of the following conditions are satisfied:

(1) The student's condition is assessed by either a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery or an athletic trainer licensed under Chapter 4755. of the Revised Code.

(2) The student receives written clearance from the physician or athletic trainer that it is safe for the student to return to practice and competition.

The physician or athletic trainer may be a volunteer.

(E)(1) A school district, member of a school district board of education, or school district employee or volunteer is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from any act or omission in

the assessment of a concussion or head injury of a student athlete 49
and clearance to return to practice or competition granted to that 50
student by a physician or athletic trainer under division (D) of 51
this section. 52

This section does not eliminate, limit, or reduce any other 53
immunity or defense that a school district, member of a school 54
district board of education, or school district employee or 55
volunteer may be entitled to under Chapter 2744. or any other 56
provision of the Revised Code or under the common law of this 57
state. 58

(2) A chartered or nonchartered nonpublic school or any 59
officer, director, or employee or volunteer of the school is not 60
liable in damages in a civil action for injury, death, or loss to 61
person or property allegedly arising from any act or omission in 62
the assessment of a concussion or head injury of a student athlete 63
and clearance to return to practice or play granted to that 64
student by a physician or athletic trainer under division (D) of 65
this section. 66

Sec. 3314.03. A copy of every contract entered into under 67
this section shall be filed with the superintendent of public 68
instruction. 69

(A) Each contract entered into between a sponsor and the 70
governing authority of a community school shall specify the 71
following: 72

(1) That the school shall be established as either of the 73
following: 74

(a) A nonprofit corporation established under Chapter 1702. 75
of the Revised Code, if established prior to April 8, 2003; 76

(b) A public benefit corporation established under Chapter 77
1702. of the Revised Code, if established after April 8, 2003. 78

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;	79 80 81 82
(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;	83 84 85
(4) Performance standards by which the success of the school will be evaluated by the sponsor;	86 87
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	88 89
(6)(a) Dismissal procedures;	90
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.	91 92 93 94 95 96
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	97 98
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.	99 100 101 102 103 104
(9) The facilities to be used and their locations;	105
(10) Qualifications of teachers, including the following:	106
(a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the	107 108

Revised Code, except that a community school may engage	109
noncertificated persons to teach up to twelve hours per week	110
pursuant to section 3319.301 of the Revised Code;	111
(b) A requirement that each classroom teacher initially hired	112
by the school on or after July 1, 2013, and employed to provide	113
instruction in physical education hold a valid license issued	114
pursuant to section 3319.22 of the Revised Code for teaching	115
physical education.	116
(11) That the school will comply with the following	117
requirements:	118
(a) The school will provide learning opportunities to a	119
minimum of twenty-five students for a minimum of nine hundred	120
twenty hours per school year.	121
(b) The governing authority will purchase liability	122
insurance, or otherwise provide for the potential liability of the	123
school.	124
(c) The school will be nonsectarian in its programs,	125
admission policies, employment practices, and all other	126
operations, and will not be operated by a sectarian school or	127
religious institution.	128
(d) The school will comply with sections 9.90, 9.91, 109.65,	129
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711,	130
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, <u>3313.538</u> ,	131
3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643,	132
3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667,	133
3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716,	134
3313.718, 3313.719, 3313.80, 3313.814, 3313.816, 3314.817 ,	135
<u>3313.817</u> , 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391,	136
3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18,	137
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and	138
Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141.,	139

and 4167. of the Revised Code as if it were a school district and 140
will comply with section 3301.0714 of the Revised Code in the 141
manner specified in section 3314.17 of the Revised Code. 142

(e) The school shall comply with Chapter 102. and section 143
2921.42 of the Revised Code. 144

(f) The school will comply with sections 3313.61, 3313.611, 145
and 3313.614 of the Revised Code, except that for students who 146
enter ninth grade for the first time before July 1, 2010, the 147
requirement in sections 3313.61 and 3313.611 of the Revised Code 148
that a person must successfully complete the curriculum in any 149
high school prior to receiving a high school diploma may be met by 150
completing the curriculum adopted by the governing authority of 151
the community school rather than the curriculum specified in Title 152
XXXVIII of the Revised Code or any rules of the state board of 153
education. Beginning with students who enter ninth grade for the 154
first time on or after July 1, 2010, the requirement in sections 155
3313.61 and 3313.611 of the Revised Code that a person must 156
successfully complete the curriculum of a high school prior to 157
receiving a high school diploma shall be met by completing the 158
Ohio core curriculum prescribed in division (C) of section 159
3313.603 of the Revised Code, unless the person qualifies under 160
division (D) or (F) of that section. Each school shall comply with 161
the plan for awarding high school credit based on demonstration of 162
subject area competency, adopted by the state board of education 163
under division (J) of section 3313.603 of the Revised Code. 164

(g) The school governing authority will submit within four 165
months after the end of each school year a report of its 166
activities and progress in meeting the goals and standards of 167
divisions (A)(3) and (4) of this section and its financial status 168
to the sponsor and the parents of all students enrolled in the 169
school. 170

(h) The school, unless it is an internet- or computer-based 171

community school, will comply with sections 3313.674 and 3313.801 172
of the Revised Code as if it were a school district. 173

(12) Arrangements for providing health and other benefits to 174
employees; 175

(13) The length of the contract, which shall begin at the 176
beginning of an academic year. No contract shall exceed five years 177
unless such contract has been renewed pursuant to division (E) of 178
this section. 179

(14) The governing authority of the school, which shall be 180
responsible for carrying out the provisions of the contract; 181

(15) A financial plan detailing an estimated school budget 182
for each year of the period of the contract and specifying the 183
total estimated per pupil expenditure amount for each such year. 184
The plan shall specify for each year the base formula amount that 185
will be used for purposes of funding calculations under section 186
3314.08 of the Revised Code. This base formula amount for any year 187
shall not exceed the formula amount defined under section 3317.02 188
of the Revised Code. The plan may also specify for any year a 189
percentage figure to be used for reducing the per pupil amount of 190
the subsidy calculated pursuant to section 3317.029 of the Revised 191
Code the school is to receive that year under section 3314.08 of 192
the Revised Code. 193

(16) Requirements and procedures regarding the disposition of 194
employees of the school in the event the contract is terminated or 195
not renewed pursuant to section 3314.07 of the Revised Code; 196

(17) Whether the school is to be created by converting all or 197
part of an existing public school or educational service center 198
building or is to be a new start-up school, and if it is a 199
converted public school or service center building, specification 200
of any duties or responsibilities of an employer that the board of 201
education or service center governing board that operated the 202

school or building before conversion is delegating to the 203
governing authority of the community school with respect to all or 204
any specified group of employees provided the delegation is not 205
prohibited by a collective bargaining agreement applicable to such 206
employees; 207

(18) Provisions establishing procedures for resolving 208
disputes or differences of opinion between the sponsor and the 209
governing authority of the community school; 210

(19) A provision requiring the governing authority to adopt a 211
policy regarding the admission of students who reside outside the 212
district in which the school is located. That policy shall comply 213
with the admissions procedures specified in sections 3314.06 and 214
3314.061 of the Revised Code and, at the sole discretion of the 215
authority, shall do one of the following: 216

(a) Prohibit the enrollment of students who reside outside 217
the district in which the school is located; 218

(b) Permit the enrollment of students who reside in districts 219
adjacent to the district in which the school is located; 220

(c) Permit the enrollment of students who reside in any other 221
district in the state. 222

(20) A provision recognizing the authority of the department 223
of education to take over the sponsorship of the school in 224
accordance with the provisions of division (C) of section 3314.015 225
of the Revised Code; 226

(21) A provision recognizing the sponsor's authority to 227
assume the operation of a school under the conditions specified in 228
division (B) of section 3314.073 of the Revised Code; 229

(22) A provision recognizing both of the following: 230

(a) The authority of public health and safety officials to 231
inspect the facilities of the school and to order the facilities 232

closed if those officials find that the facilities are not in 233
compliance with health and safety laws and regulations; 234

(b) The authority of the department of education as the 235
community school oversight body to suspend the operation of the 236
school under section 3314.072 of the Revised Code if the 237
department has evidence of conditions or violations of law at the 238
school that pose an imminent danger to the health and safety of 239
the school's students and employees and the sponsor refuses to 240
take such action; 241

(23) A description of the learning opportunities that will be 242
offered to students including both classroom-based and 243
non-classroom-based learning opportunities that is in compliance 244
with criteria for student participation established by the 245
department under division (L)(2) of section 3314.08 of the Revised 246
Code; 247

(24) The school will comply with sections 3302.04 and 248
3302.041 of the Revised Code, except that any action required to 249
be taken by a school district pursuant to those sections shall be 250
taken by the sponsor of the school. However, the sponsor shall not 251
be required to take any action described in division (F) of 252
section 3302.04 of the Revised Code. 253

(25) Beginning in the 2006-2007 school year, the school will 254
open for operation not later than the thirtieth day of September 255
each school year, unless the mission of the school as specified 256
under division (A)(2) of this section is solely to serve dropouts. 257
In its initial year of operation, if the school fails to open by 258
the thirtieth day of September, or within one year after the 259
adoption of the contract pursuant to division (D) of section 260
3314.02 of the Revised Code if the mission of the school is solely 261
to serve dropouts, the contract shall be void. 262

(B) The community school shall also submit to the sponsor a 263

comprehensive plan for the school. The plan shall specify the	264
following:	265
(1) The process by which the governing authority of the	266
school will be selected in the future;	267
(2) The management and administration of the school;	268
(3) If the community school is a currently existing public	269
school or educational service center building, alternative	270
arrangements for current public school students who choose not to	271
attend the converted school and for teachers who choose not to	272
teach in the school or building after conversion;	273
(4) The instructional program and educational philosophy of	274
the school;	275
(5) Internal financial controls.	276
(C) A contract entered into under section 3314.02 of the	277
Revised Code between a sponsor and the governing authority of a	278
community school may provide for the community school governing	279
authority to make payments to the sponsor, which is hereby	280
authorized to receive such payments as set forth in the contract	281
between the governing authority and the sponsor. The total amount	282
of such payments for oversight and monitoring of the school shall	283
not exceed three per cent of the total amount of payments for	284
operating expenses that the school receives from the state.	285
(D) The contract shall specify the duties of the sponsor	286
which shall be in accordance with the written agreement entered	287
into with the department of education under division (B) of	288
section 3314.015 of the Revised Code and shall include the	289
following:	290
(1) Monitor the community school's compliance with all laws	291
applicable to the school and with the terms of the contract;	292
(2) Monitor and evaluate the academic and fiscal performance	293

and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

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

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

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

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

(F) If a community school fails to open for operation within one year after the contract entered into under this section is

adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code. Any contract that becomes void under this division shall not count toward any statewide limit on the number of such contracts prescribed by section 3314.013 of the Revised Code.

Sec. 3314.142. A community school, member of a community school governing authority, community school employee or volunteer, community school operator, or employee or volunteer of a community school operator is not liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from any act or omission in the assessment of a concussion or head injury of a student athlete and clearance to return to practice or competition granted to that student by a physician or athletic trainer under division (D) of section 3313.538 of the Revised Code.

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

Sec. 3319.303. (A) The state board of education shall adopt rules establishing standards and requirements for obtaining a pupil-activity program permit for any individual who does not hold a valid educator license, certificate, or permit issued by the state board under section 3319.22, 3319.26, or 3319.27 of the

Revised Code. The permit issued under this section shall be valid 356
for coaching, supervising, or directing a pupil-activity program 357
under section 3313.53 of the Revised Code. Subject to the 358
provisions of section 3319.31 of the Revised Code, a permit issued 359
under this section shall be valid for three years and shall be 360
renewable. 361

(B) The state board shall adopt rules applicable to 362
individuals who hold valid educator licenses, certificates, or 363
permits issued by the state board under section 3319.22, 3319.26, 364
or 3319.27 of the Revised Code setting forth standards to assure 365
any such individual's competence to direct, supervise, or coach a 366
pupil-activity program. The rules adopted under this division 367
shall not be more stringent than the standards set forth in rules 368
applicable to individuals who do not hold such licenses, 369
certificates, or permits adopted under division (A) of this 370
section. 371

(C) As a condition to issuing or renewing a pupil-activity 372
program permit to coach interscholastic athletics: 373

(1) The state board shall require each individual applying 374
for a first permit on or after the effective date of this 375
amendment to successfully complete a training program that is 376
specifically focused on brain trauma and brain injury management. 377

(2) The state board shall require each individual applying 378
for a permit renewal on or after that date to present evidence 379
that the individual has successfully completed, within the 380
previous three years, a training program linked on the department 381
of health's web site under section 3707.52 of the Revised Code. 382

Sec. 3326.11. Each science, technology, engineering, and 383
mathematics school established under this chapter and its 384
governing body shall comply with sections 9.90, 9.91, 109.65, 385
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 386

3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 387
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 388
3313.536, 3313.538, 3313.608, 3313.6012, 3313.6013, 3313.6014, 389
3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 390
3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 391
3313.67, 3313.671, 3313.672, 3313.673, 3313.674, 3313.69, 3313.71, 392
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 393
3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.21, 3319.32, 394
3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3321.01, 395
3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 396
3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 102., 117., 397
1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 398
4167. of the Revised Code as if it were a school district. 399

Sec. 3326.26. A STEM school, member of a STEM school 400
governing body, or STEM school employee or volunteer is not liable 401
in damages in a civil action for injury, death, or loss to person 402
or property allegedly arising from any act or omission in the 403
assessment of a concussion or head injury of a student athlete and 404
clearance to return to practice or competition granted to that 405
student by a physician or athletic trainer under division (D) of 406
section 3313.538 of the Revised Code. 407

This section does not eliminate, limit, or reduce any other 408
immunity or defense that a STEM school, member of a STEM school 409
governing body, or STEM school employee or volunteer may be 410
entitled to under Chapter 2744. or any other provision of the 411
Revised Code or under the common law of this state. 412

Sec. 3707.51. (A) As used in this section and in section 413
3707.52 of the Revised Code, "youth sports organization" means a 414
public or nonpublic entity that organizes an athletic activity in 415
which the athletes are age nineteen or younger and are required to 416
pay a fee to participate in the athletic activity or whose cost to 417

participate is sponsored by a business or nonprofit organization. 418

(B) No youth sports organization shall permit an individual 419
to practice for or participate in an athletic activity until the 420
individual has submitted a form signed by the individual's parent 421
or guardian stating that the individual and the parent or guardian 422
have received the concussion and head injury information sheet 423
required by section 3707.52 of the Revised Code. 424

(C) No youth sports organization shall permit an individual 425
to act as a coach unless the individual holds a pupil-activity 426
program permit issued under section 3319.303 of the Revised Code 427
for coaching interscholastic athletics or presents evidence that 428
the individual has successfully completed, within the previous 429
three years, a training program linked on the department of 430
health's web site under section 3707.52 of the Revised Code. 431

(D) A coach or other official of a youth sports organization 432
shall remove from practice or competition an individual suspected 433
of having sustained a concussion or head injury during a practice 434
or game of a sport. 435

(E) A coach or other official of a youth sports organization 436
shall not allow an individual removed from practice or competition 437
on suspicion of a concussion or head injury to return to practice 438
or competition on the same day the individual is removed from 439
practice or competition. Thereafter, a coach or other official 440
shall not allow the individual to return to practice or 441
competition until both of the following conditions are satisfied: 442

(1) The individual's condition is assessed by either a 443
physician authorized under Chapter 4731. of the Revised Code to 444
practice medicine and surgery or osteopathic medicine and surgery 445
or an athletic trainer licensed under Chapter 4755. of the Revised 446
Code. 447

(2) The individual receives written clearance from the 448

physician or athletic trainer that it is safe for the individual 449
to return to practice and competition. 450

The physician or athletic trainer may be a volunteer. 451

(F) A youth sports organization or official, employee, or 452
volunteer of a youth sports organization is not liable in damages 453
in a civil action for injury, death, or loss to person or property 454
allegedly arising from any act or omission in the assessment of a 455
concussion or head injury of a participant in the youth sports 456
organization and clearance to return to practice or competition 457
granted to that participant by a physician or athletic trainer 458
under division (E) of this section. 459

This section does not eliminate, limit, or reduce any other 460
immunity or defense that a public entity, public official, or 461
public employee may be entitled to under Chapter 2744. or any 462
other provision of the Revised Code or under the common law of 463
this state. 464

Sec. 3707.52. (A) Not later than ninety days after the 465
effective date of this section, the department of health shall 466
create a concussion and head injury information sheet for 467
participants in interscholastic athletics and youth sports 468
organizations. The department shall include in the information 469
sheet pertinent information to inform and educate coaches, 470
athletes, and the parents or guardians of athletes of the signs 471
and symptoms of concussion or head injury and the risks of 472
continuing to engage in the practice or competition of a sport 473
after sustaining a concussion or head injury. The department 474
periodically shall review and update the information sheet 475
accordingly. 476

The department shall make the information sheet available on 477
its web site in a format suitable for easy downloading and 478
printing. 479

(B) Beginning not later than ninety days after the effective 480
date of this section, the department shall provide a link on its 481
web site to one or more free online training programs in 482
recognizing and evaluating concussions and head injuries for 483
coaches of schools and youth sports organizations. 484

Section 2. That existing sections 3314.03, 3319.303, and 485
3326.11 of the Revised Code are hereby repealed. 486

Section 3. It is not the intent of this act, by the amendment 487
of sections 3314.03 and 3326.11 of the Revised Code, to accelerate 488
the effective date of the amendments of Sub. S.B. 210 of the 128th 489
General Assembly that add "3313.814, 3313.816, 3313.817," to 490
division (A)(11)(d) of section 3314.03 and to section 3326.11 of 491
the Revised Code, effective July 1, 2011. 492