

As Introduced

**129th General Assembly
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H. B. No. 255

Representative Gonzales

Cosponsors: Representatives Murray, Stebelton

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A B I L L

To amend sections 3313.813 and 3314.18 of the Revised 1
Code to require school districts and community 2
schools to establish school breakfast programs in 3
academic emergency buildings and to make other 4
changes regarding school breakfast programs. 5

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

Section 1. That sections 3313.813 and 3314.18 of the Revised 6
Code be amended to read as follows: 7

Sec. 3313.813. (A) As used in this section: 8

(1) "Outdoor education center" means a public or nonprofit 9
private entity that provides to pupils enrolled in any public or 10
chartered nonpublic elementary or secondary school an outdoor 11
educational curriculum that the school considers to be part of its 12
educational program. 13

(2) "Outside-school-hours care center" has the meaning 14
established in 7 C.F.R. 226.2. 15

(B) The state board of education shall establish standards 16
for a school lunch program, school breakfast program, child and 17
adult care food program, special food service program for 18

children, summer food service program for children, special milk 19
program for children, food service equipment assistance program, 20
and commodity distribution program established under the "National 21
School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as 22
amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 23
U.S.C. 1771, as amended. Any board of education of a school 24
district, nonprofit private school, outdoor education center, 25
child care institution, outside-school-hours care center, or 26
summer camp desiring to participate in such a program or required 27
to participate under this section shall, if eligible to 28
participate under the "National School Lunch Act," as amended, or 29
the "Child Nutrition Act of 1966," as amended, make application to 30
the state board of education for assistance. The board shall 31
administer the allocation and distribution of all state and 32
federal funds for these programs. 33

(C) The state board of education shall require the board of 34
education of each school district to establish and maintain a 35
school breakfast, lunch, and summer food service program pursuant 36
to the "National School Lunch Act" and the "Child Nutrition Act of 37
1966," as described in divisions (C)(1) to ~~(4)~~(5) of this section. 38

(1) The state board shall require the board of education in 39
each school district to establish a breakfast program in every 40
school that was declared to be in a state of academic emergency 41
under section 3302.03 of the Revised Code in the most recent 42
ratings of school buildings published prior to the first day of 43
July of the school year or where at least one-fifth of the pupils 44
in the school are eligible under federal requirements for free 45
breakfasts ~~and to establish a lunch program in every school where~~ 46
~~at least one fifth of the pupils are eligible for free lunches.~~ 47
The district board, in consultation with its administrative 48
employees responsible for food services, shall include in any 49
improvement plan required under section 3302.041 of the Revised 50

Code the implementation of a breakfast program in each school 51
declared to be in a state of academic emergency. The plan shall 52
incorporate best practices for school breakfast programs. The 53
board of education required to establish a breakfast program under 54
this division may make a charge in accordance with federal 55
requirements for each reduced price breakfast or paid breakfast to 56
cover the cost incurred in providing that meal. 57

(2) The state board shall require the board of education in 58
each school district to establish a breakfast program in every 59
school in which the parents of at least one-half of the children 60
enrolled in the school have requested that the breakfast program 61
be established. The board of education required to establish a 62
program under this division may make a charge in accordance with 63
federal requirements for each meal to cover all or part of the 64
costs incurred in establishing such a program. 65

(3) The state board shall require the board of education in 66
each school district to establish a lunch program in every school 67
where at least one-fifth of the pupils are eligible for free 68
lunches. 69

(4) The state board shall require the board of education in 70
each school district to establish one of the following for summer 71
intervention services described in division (D) of section 72
3301.0711 and section 3313.608 of the Revised Code and any other 73
summer intervention program required by law: 74

(a) An extension of the school breakfast program pursuant to 75
the "National School Lunch Act" and the "Child Nutrition Act of 76
1966"; 77

(b) An extension of the school lunch program pursuant to 78
those acts; 79

(c) A summer food service program pursuant to those acts. 80

~~(4)~~(5)(a) If the board of education of a school district 81

determines that, for financial reasons, it cannot comply with 82
division (C)(1) ~~or~~, (3), or (4) of this section, the district 83
board may choose not to comply with ~~either or both~~ any or all of 84
those divisions, except as provided in division (C)~~(4)~~(5)(b) of 85
this section. The district board publicly shall communicate to the 86
residents of the district, in the manner it determines 87
appropriate, its decision not to comply. In addition, the district 88
board shall develop a financial viability plan that will enable 89
the board to comply within two years. 90

(b) If a district board chooses not to comply with division 91
(C)(1) or (3) of this section, the state board nevertheless shall 92
require the district board to establish a breakfast program in 93
every school where at least one-third of the pupils in the school 94
are eligible under federal requirements for free breakfasts ~~and~~ or 95
to establish a lunch program in every school where at least 96
one-third of the pupils are eligible for free lunches, as 97
applicable. The district board may make a charge in accordance 98
with federal requirements for each reduced price breakfast or paid 99
breakfast to cover the cost incurred in providing that meal. 100

(c) If a school district cannot for good cause comply with 101
the requirements of division (C)(2) or ~~(4)~~(5)(b) of this section 102
at the time the state board determines that a district is subject 103
to these requirements, the state board shall grant a reasonable 104
extension of time. Good cause for an extension of time shall 105
include, but need not be limited to, economic impossibility of 106
compliance with the requirements at the time the state board 107
determines that a district is subject to them. The state board 108
shall require the district board to develop, and submit to the 109
department of education, a plan that will enable the district 110
board to comply with the requirements of division (C)(2) or (5)(b) 111
of this section not later than the date on which the extension 112
granted under this division expires. The state board may renew the 113

extension if the district board is still unable to comply upon the 114
extension's expiration. 115

(D)(1) The state board shall accept the application of any 116
outdoor education center in the state making application for 117
participation in a program pursuant to division (B) of this 118
section. 119

(2) For purposes of participation in any program pursuant to 120
this section, the board shall certify any outdoor education center 121
making application as an educational unit that is part of the 122
educational system of the state, if the center: 123

(a) Meets the definition of an outdoor education center; 124

(b) Provides its outdoor education curriculum to pupils on an 125
overnight basis so that pupils are in residence at the center for 126
more than twenty-four consecutive hours; 127

(c) Operates under public or nonprofit private ownership in a 128
single building or complex of buildings. 129

(3) The board shall approve any outdoor education center 130
certified under this division for participation in the program for 131
which the center is making application on the same basis as any 132
other applicant for that program. 133

(E) Any school district board of education or chartered 134
nonpublic school that participates in a breakfast program pursuant 135
to this section may offer breakfast to pupils in their classrooms 136
during the school day. 137

(F) Notwithstanding anything in this section to the contrary, 138
in each fiscal year in which the general assembly appropriates 139
funds for purposes of this division, the board of education of 140
each school district and each chartered nonpublic school that 141
participates in a breakfast program pursuant to this section shall 142
provide a breakfast free of charge to each pupil who is eligible 143

under federal requirements for a reduced price breakfast. 144

Sec. 3314.18. (A) Subject to division (C) of this section, 145
the governing authority of each community school shall establish a 146
breakfast program pursuant to the "National School Lunch Act," 60 147
Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child 148
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, 149
if at least one-fifth of the pupils in the school are eligible 150
under federal requirements for free breakfasts or the school was 151
declared to be in a state of academic emergency under section 152
3302.03 of the Revised Code in the most recent ratings of school 153
buildings published prior to the first day of July of the school 154
year, and shall establish a lunch program pursuant to those acts 155
if at least one-fifth of the pupils are eligible for free lunches. 156
If the school has been declared to be in a state of academic 157
emergency, the governing authority shall include in any 158
improvement plan required under section 3302.041 of the Revised 159
Code the implementation of the breakfast program required by this 160
division. The plan shall incorporate best practices for school 161
breakfast programs. The governing authority required to establish 162
a breakfast program under this division may make a charge in 163
accordance with federal requirements for each reduced price 164
breakfast or paid breakfast to cover the cost incurred in 165
providing that meal. 166

(B) Subject to division (C) of this section, the governing 167
authority of each community school shall establish one of the 168
following for summer intervention services described in division 169
(D) of section 3301.0711 and section 3313.608 of the Revised Code 170
and any other summer intervention program required by law: 171

(1) An extension of the school breakfast program pursuant to 172
the "National School Lunch Act" and the "Child Nutrition Act of 173
1966"; 174

(2) An extension of the school lunch program pursuant to those acts;	175 176
(3) A summer food service program pursuant to those acts.	177
(C) If the governing authority of a community school determines that, for financial reasons, it cannot comply with division (A) or (B) of this section, the governing authority may choose not to comply with either or both divisions. In that case, the governing authority shall communicate to the parents of its students, in the manner it determines appropriate, its decision not to comply. <u>In addition, the governing authority shall develop a financial viability plan that will enable the governing authority to comply within two years.</u>	178 179 180 181 182 183 184 185 186
(D) The governing authority of each community school required to establish a school breakfast, school lunch, or summer food service program under this section shall apply for state and federal funds allocated by the state board of education under division (B) of section 3313.813 of the Revised Code and shall comply with the state board's standards adopted under that division.	187 188 189 190 191 192 193
(E) The governing authority of any community school required to establish a breakfast program under this section or that elects to participate in a breakfast program pursuant to the "National School Lunch Act" and the "Child Nutrition Act of 1966" may offer breakfast to pupils in their classrooms during the school day.	194 195 196 197 198
(F) Notwithstanding anything in this section to the contrary, in each fiscal year in which the general assembly appropriates funds for purposes of this division, the governing authority of each community school required to establish a breakfast program under this section or that elects to participate in a breakfast program pursuant to the "National School Lunch Act" and the "Child Nutrition Act of 1966" shall provide a breakfast free of charge to	199 200 201 202 203 204 205

each pupil who is eligible under federal requirements for a 206
reduced price breakfast. 207

(G) This section does not apply to internet- or 208
computer-based community schools. 209

Section 2. That existing sections 3313.813 and 3314.18 of the 210
Revised Code are hereby repealed. 211