

As Passed by the Senate

**129th General Assembly
Regular Session
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S. B. No. 118

Senator Cates

Cosponsors: Senators Schaffer, Gillmor, Hite, Jordan, Patton

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A B I L L

To amend sections 3301.922, 3302.032, 3313.674, 1
3314.03, and 3326.11 and to enact sections 3314.15 2
and 3326.26 of the Revised Code to make schools' 3
implementation of body mass index screenings 4
optional. 5

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

Section 1. That sections 3301.922, 3302.032, 3313.674, 6
3314.03, and 3326.11 be amended and sections 3314.15 and 3326.26 7
of the Revised Code be enacted to read as follows: 8

Sec. 3301.922. The department of education shall issue an 9
annual report on the ~~compliance of participation by~~ public and 10
chartered nonpublic schools ~~with in the requirements option~~ of 11
~~section~~ sections 3313.674, 3314.15, and 3326.26 of the Revised 12
Code to screen students for body mass index and weight status 13
category. The department shall include in the report any data 14
regarding student health and wellness collected ~~by the department~~ 15
in conjunction with those requirements. The department shall 16
submit each report to the governor, the general assembly, and the 17
healthy choices for healthy children council. 18

Sec. 3302.032. (A) Not later than December 31, 2011, the state board of education shall establish a measure of the following:

(1) Student success in meeting the benchmarks contained in the physical education standards adopted under division (A)(3) of section 3301.079 of the Revised Code;

(2) Compliance with the requirements for local wellness policies prescribed by section 204 of the "Child Nutrition and WIC Reauthorization Act of 2004," 42 U.S.C. 1751 note;

(3) Whether a school district or building ~~is complying with~~ has elected to administer the screenings authorized by section 3313.674 of the Revised Code ~~instead of operating under a waiver from the requirements of that section;~~

(4) Whether a school district or building is participating in the physical activity pilot program administered under section 3313.6016 of the Revised Code.

(B) The measure shall be included on the school district and building report cards issued under section 3302.03 of the Revised Code, beginning with the report cards issued for the 2012-2013 school year, but it shall not be a factor in the performance ratings issued under that section.

(C) The department of education may accept, receive, and expend gifts, devises, or bequests of money for the purpose of establishing the measure required by this section.

Sec. 3313.674. (A) Except as provided in ~~divisions~~ division (D) ~~and (H)~~ of this section, the board of education of each city, exempted village, or local school district and the governing authority of each chartered nonpublic school ~~shall~~ may require each student enrolled in kindergarten, third grade, fifth grade, and ninth grade to undergo a screening for body mass index and

weight status category ~~prior to the first day of May of the school~~ 49
~~year.~~ 50

(B) The board or governing authority may provide any 51
screenings ~~required~~ authorized by this section itself, contract 52
with another entity for provision of the screenings, or request 53
the parent or guardian of each student subject to ~~this section~~ the 54
screening to obtain the screening from a provider selected by the 55
parent or guardian and to submit the results to the board or 56
governing authority. If the board or governing authority provides 57
the screenings itself or contracts with another entity for 58
provision of the screenings, the board or governing authority 59
shall protect student privacy by ensuring that each student is 60
screened alone and not in the presence of other students or staff. 61

(C) ~~Prior to the first day of February of each~~ Each school 62
~~year, the~~ each board or governing authority electing to require 63
the screening shall provide the parent or guardian of each student 64
subject to ~~this section~~ the screening with information about the 65
screening program. If the board or governing authority requests 66
parents and guardians to obtain a screening from a provider of 67
their choosing, the board or governing authority shall provide 68
them with a list of providers and information about screening 69
services available in the community to parents and guardians who 70
cannot afford a private provider. 71

(D) If the parent or guardian of a student subject to ~~this~~ 72
~~section~~ the screening signs and submits to the board or governing 73
authority a written statement indicating that the parent or 74
guardian does not wish to have the student undergo the screening, 75
the board or governing authority shall not require the student to 76
be screened. 77

(E) The board or governing authority shall notify the parent 78
or guardian of each student screened under this section of any 79
health risks associated with the student's results and shall 80

provide the parent or guardian with information about 81
appropriately addressing the risks. For this purpose, the 82
department of health, in consultation with the department of 83
education and the healthy choices for healthy children council 84
established under section 3301.92 of the Revised Code, shall 85
develop a list of documents, pamphlets, or other resources that 86
may be distributed to parents and guardians under this division. 87

(F) The board or governing authority shall maintain the 88
confidentiality of each student's individual screening results at 89
all times. No board or governing authority shall report a 90
student's individual screening results to any person other than 91
the student's parent or guardian. 92

(G) In a manner prescribed by rule of the director of health, 93
~~the~~ each board or governing authority electing to require the 94
screening shall report aggregated body mass index and weight 95
status category data collected under this section, and any other 96
demographic data required by the director, to the department of 97
health. In the case of a school district, data shall be aggregated 98
for the district as a whole and not for individual schools within 99
the district, unless the district operates only one school. In the 100
case of a chartered nonpublic school, data shall be aggregated for 101
the school as a whole. The department annually may publish the 102
data reported under this division, aggregated by county. ~~If any~~ 103
For each county in which a district, community school, STEM 104
school, or chartered nonpublic school ~~was granted a waiver under~~ 105
~~division (H) of this section~~ has elected not to require the 106
screening for a school year for which data is published, the 107
department shall note that the data for the county in which the 108
district or school is located is incomplete. The department may 109
share data reported under this division with other governmental 110
entities for the purpose of monitoring population health, making 111
reports, or public health promotional activities. 112

~~(H) A board or governing authority may obtain a waiver of the requirement to have students undergo screenings for body mass index and weight status category by submitting to the superintendent of public instruction an affidavit, attested to by the president or presiding officer of the board or governing authority, stating that the board or governing authority is unable to comply with the requirement. The superintendent shall grant the waiver upon receipt of the affidavit.~~

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

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

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

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

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

(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;

(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;

(4) Performance standards by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised

Code and, if applicable, section 3314.061 of the Revised Code;	143
(6)(a) Dismissal procedures;	144
(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.	145 146 147 148 149 150
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	151 152
(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.	153 154 155 156 157 158
(9) The facilities to be used and their locations;	159
(10) Qualifications of teachers, including the following:	160
(a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;	161 162 163 164 165
(b) A requirement that each classroom teacher initially hired by the school on or after July 1, 2013, and employed to provide instruction in physical education hold a valid license issued pursuant to section 3319.22 of the Revised Code for teaching physical education.	166 167 168 169 170
(11) That the school will comply with the following requirements:	171 172

(a) The school will provide learning opportunities to a	173
minimum of twenty-five students for a minimum of nine hundred	174
twenty hours per school year.	175
(b) The governing authority will purchase liability	176
insurance, or otherwise provide for the potential liability of the	177
school.	178
(c) The school will be nonsectarian in its programs,	179
admission policies, employment practices, and all other	180
operations, and will not be operated by a sectarian school or	181
religious institution.	182
(d) The school will comply with sections 9.90, 9.91, 109.65,	183
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711,	184
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608,	185
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648,	186
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67,	187
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716,	188
3313.718, 3313.719, 3313.80, 3313.814, 3313.816, 3314.817	189
<u>3313.817</u> , 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391,	190
3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18,	191
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and	192
Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141.,	193
and 4167. of the Revised Code as if it were a school district and	194
will comply with section 3301.0714 of the Revised Code in the	195
manner specified in section 3314.17 of the Revised Code.	196
(e) The school shall comply with Chapter 102. and section	197
2921.42 of the Revised Code.	198
(f) The school will comply with sections 3313.61, 3313.611,	199
and 3313.614 of the Revised Code, except that for students who	200
enter ninth grade for the first time before July 1, 2010, the	201
requirement in sections 3313.61 and 3313.611 of the Revised Code	202
that a person must successfully complete the curriculum in any	203

high school prior to receiving a high school diploma may be met by 204
completing the curriculum adopted by the governing authority of 205
the community school rather than the curriculum specified in Title 206
XXXIII of the Revised Code or any rules of the state board of 207
education. Beginning with students who enter ninth grade for the 208
first time on or after July 1, 2010, the requirement in sections 209
3313.61 and 3313.611 of the Revised Code that a person must 210
successfully complete the curriculum of a high school prior to 211
receiving a high school diploma shall be met by completing the 212
Ohio core curriculum prescribed in division (C) of section 213
3313.603 of the Revised Code, unless the person qualifies under 214
division (D) or (F) of that section. Each school shall comply with 215
the plan for awarding high school credit based on demonstration of 216
subject area competency, adopted by the state board of education 217
under division (J) of section 3313.603 of the Revised Code. 218

(g) The school governing authority will submit within four 219
months after the end of each school year a report of its 220
activities and progress in meeting the goals and standards of 221
divisions (A)(3) and (4) of this section and its financial status 222
to the sponsor and the parents of all students enrolled in the 223
school. 224

(h) The school, unless it is an internet- or computer-based 225
community school, will comply with ~~sections 3313.674 and section~~ 226
3313.801 of the Revised Code as if it were a school district. 227

(12) Arrangements for providing health and other benefits to 228
employees; 229

(13) The length of the contract, which shall begin at the 230
beginning of an academic year. No contract shall exceed five years 231
unless such contract has been renewed pursuant to division (E) of 232
this section. 233

(14) The governing authority of the school, which shall be 234

responsible for carrying out the provisions of the contract; 235

(15) A financial plan detailing an estimated school budget 236
for each year of the period of the contract and specifying the 237
total estimated per pupil expenditure amount for each such year. 238
The plan shall specify for each year the base formula amount that 239
will be used for purposes of funding calculations under section 240
3314.08 of the Revised Code. This base formula amount for any year 241
shall not exceed the formula amount defined under section 3317.02 242
of the Revised Code. The plan may also specify for any year a 243
percentage figure to be used for reducing the per pupil amount of 244
the subsidy calculated pursuant to section 3317.029 of the Revised 245
Code the school is to receive that year under section 3314.08 of 246
the Revised Code. 247

(16) Requirements and procedures regarding the disposition of 248
employees of the school in the event the contract is terminated or 249
not renewed pursuant to section 3314.07 of the Revised Code; 250

(17) Whether the school is to be created by converting all or 251
part of an existing public school or educational service center 252
building or is to be a new start-up school, and if it is a 253
converted public school or service center building, specification 254
of any duties or responsibilities of an employer that the board of 255
education or service center governing board that operated the 256
school or building before conversion is delegating to the 257
governing authority of the community school with respect to all or 258
any specified group of employees provided the delegation is not 259
prohibited by a collective bargaining agreement applicable to such 260
employees; 261

(18) Provisions establishing procedures for resolving 262
disputes or differences of opinion between the sponsor and the 263
governing authority of the community school; 264

(19) A provision requiring the governing authority to adopt a 265

policy regarding the admission of students who reside outside the 266
district in which the school is located. That policy shall comply 267
with the admissions procedures specified in sections 3314.06 and 268
3314.061 of the Revised Code and, at the sole discretion of the 269
authority, shall do one of the following: 270

(a) Prohibit the enrollment of students who reside outside 271
the district in which the school is located; 272

(b) Permit the enrollment of students who reside in districts 273
adjacent to the district in which the school is located; 274

(c) Permit the enrollment of students who reside in any other 275
district in the state. 276

(20) A provision recognizing the authority of the department 277
of education to take over the sponsorship of the school in 278
accordance with the provisions of division (C) of section 3314.015 279
of the Revised Code; 280

(21) A provision recognizing the sponsor's authority to 281
assume the operation of a school under the conditions specified in 282
division (B) of section 3314.073 of the Revised Code; 283

(22) A provision recognizing both of the following: 284

(a) The authority of public health and safety officials to 285
inspect the facilities of the school and to order the facilities 286
closed if those officials find that the facilities are not in 287
compliance with health and safety laws and regulations; 288

(b) The authority of the department of education as the 289
community school oversight body to suspend the operation of the 290
school under section 3314.072 of the Revised Code if the 291
department has evidence of conditions or violations of law at the 292
school that pose an imminent danger to the health and safety of 293
the school's students and employees and the sponsor refuses to 294
take such action; 295

(23) A description of the learning opportunities that will be 296
offered to students including both classroom-based and 297
non-classroom-based learning opportunities that is in compliance 298
with criteria for student participation established by the 299
department under division (L)(2) of section 3314.08 of the Revised 300
Code; 301

(24) The school will comply with sections 3302.04 and 302
3302.041 of the Revised Code, except that any action required to 303
be taken by a school district pursuant to those sections shall be 304
taken by the sponsor of the school. However, the sponsor shall not 305
be required to take any action described in division (F) of 306
section 3302.04 of the Revised Code. 307

(25) Beginning in the 2006-2007 school year, the school will 308
open for operation not later than the thirtieth day of September 309
each school year, unless the mission of the school as specified 310
under division (A)(2) of this section is solely to serve dropouts. 311
In its initial year of operation, if the school fails to open by 312
the thirtieth day of September, or within one year after the 313
adoption of the contract pursuant to division (D) of section 314
3314.02 of the Revised Code if the mission of the school is solely 315
to serve dropouts, the contract shall be void. 316

(B) The community school shall also submit to the sponsor a 317
comprehensive plan for the school. The plan shall specify the 318
following: 319

(1) The process by which the governing authority of the 320
school will be selected in the future; 321

(2) The management and administration of the school; 322

(3) If the community school is a currently existing public 323
school or educational service center building, alternative 324
arrangements for current public school students who choose not to 325
attend the converted school and for teachers who choose not to 326

teach in the school or building after conversion;	327
(4) The instructional program and educational philosophy of the school;	328
(5) Internal financial controls.	329
(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.	330
(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:	331
(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	332
(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;	333
(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;	334
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	335
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(5) Take steps to intervene in the school's operation to 357
correct problems in the school's overall performance, declare the 358
school to be on probationary status pursuant to section 3314.073 359
of the Revised Code, suspend the operation of the school pursuant 360
to section 3314.072 of the Revised Code, or terminate the contract 361
of the school pursuant to section 3314.07 of the Revised Code as 362
determined necessary by the sponsor; 363

(6) Have in place a plan of action to be undertaken in the 364
event the community school experiences financial difficulties or 365
closes prior to the end of a school year. 366

(E) Upon the expiration of a contract entered into under this 367
section, the sponsor of a community school may, with the approval 368
of the governing authority of the school, renew that contract for 369
a period of time determined by the sponsor, but not ending earlier 370
than the end of any school year, if the sponsor finds that the 371
school's compliance with applicable laws and terms of the contract 372
and the school's progress in meeting the academic goals prescribed 373
in the contract have been satisfactory. Any contract that is 374
renewed under this division remains subject to the provisions of 375
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 376

(F) If a community school fails to open for operation within 377
one year after the contract entered into under this section is 378
adopted pursuant to division (D) of section 3314.02 of the Revised 379
Code or permanently closes prior to the expiration of the 380
contract, the contract shall be void and the school shall not 381
enter into a contract with any other sponsor. A school shall not 382
be considered permanently closed because the operations of the 383
school have been suspended pursuant to section 3314.072 of the 384
Revised Code. Any contract that becomes void under this division 385
shall not count toward any statewide limit on the number of such 386
contracts prescribed by section 3314.013 of the Revised Code. 387

Sec. 3314.15. The governing authority of a community school, 388
other than an internet- or computer-based community school, may 389
screen students for body mass index and weight status category. If 390
a governing authority elects to require the screenings, it shall 391
comply with section 3313.674 of the Revised Code in the same 392
manner required of a school district board of education. 393

Sec. 3326.11. Each science, technology, engineering, and 394
mathematics school established under this chapter and its 395
governing body shall comply with sections 9.90, 9.91, 109.65, 396
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 397
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 398
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 399
3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 400
3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 401
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 402
3313.671, 3313.672, 3313.673, ~~3313.674~~, 3313.69, 3313.71, 403
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 404
3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.21, 3319.32, 405
3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3321.01, 406
3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 407
3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 102., 117., 408
1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 409
4167. of the Revised Code as if it were a school district. 410

Sec. 3326.26. The governing body of a science, technology, 411
engineering, and mathematics school may screen students in ninth 412
grade for body mass index and weight status category. If a 413
governing body elects to require the screenings, it shall comply 414
with section 3313.674 of the Revised Code in the same manner 415
required of a school district board of education. 416

Section 2. That existing sections 3301.922, 3302.032, 417

3313.674, 3314.03, and 3326.11 of the Revised Code are hereby
repealed.

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