

**As introduced**

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

**S. B. No. 167**

**Senator Cates**

**Cosponsors: Senators Lehner, Jones, Kearney, Seitz, Beagle**

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**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  
3318.60, 3328.01 to 3328.04, 3328.11 to 3328.15, 3  
3328.17 to 3328.19, 3328.191, 3328.192, 3328.193, 4  
3328.20 to 3328.26, 3328.31 to 3328.36, 3328.41, 5  
3328.45, 3328.50, and 3328.99 of the Revised Code 6  
to permit the establishment of public 7  
college-preparatory boarding schools for at-risk 8  
students to be operated by private nonprofit 9  
entities and to establish the College-Preparatory 10  
Boarding School Facilities Program. 11

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

**Section 1.** That sections 109.57, 3313.61, 3317.03, 3319.31, 12  
3319.311, and 4117.01 be amended and sections 3318.60, 3328.01, 13  
3328.02, 3328.03, 3328.04, 3328.11, 3328.12, 3328.13, 3328.14, 14  
3328.15, 3328.17, 3328.18, 3328.19, 3328.191, 3328.192, 3328.193, 15  
3328.20, 3328.21, 3328.22, 3328.23, 3328.24, 3328.25, 3328.26, 16  
3328.31, 3328.32, 3328.33, 3328.34, 3328.35, 3328.36, 3328.41, 17  
3328.45, 3328.50, and 3328.99 of the Revised Code be enacted to 18  
read as follows: 19

**Sec. 109.57.** (A)(1) The superintendent of the bureau of 20  
criminal identification and investigation shall procure from 21  
wherever procurable and file for record photographs, pictures, 22  
descriptions, fingerprints, measurements, and other information 23  
that may be pertinent of all persons who have been convicted of 24  
committing within this state a felony, any crime constituting a 25  
misdemeanor on the first offense and a felony on subsequent 26  
offenses, or any misdemeanor described in division (A)(1)(a), 27  
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 28  
of all children under eighteen years of age who have been 29  
adjudicated delinquent children for committing within this state 30  
an act that would be a felony or an offense of violence if 31  
committed by an adult or who have been convicted of or pleaded 32  
guilty to committing within this state a felony or an offense of 33  
violence, and of all well-known and habitual criminals. The person 34  
in charge of any county, multicounty, municipal, municipal-county, 35  
or multicounty-municipal jail or workhouse, community-based 36  
correctional facility, halfway house, alternative residential 37  
facility, or state correctional institution and the person in 38  
charge of any state institution having custody of a person 39  
suspected of having committed a felony, any crime constituting a 40  
misdemeanor on the first offense and a felony on subsequent 41  
offenses, or any misdemeanor described in division (A)(1)(a), 42  
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 43  
having custody of a child under eighteen years of age with respect 44  
to whom there is probable cause to believe that the child may have 45  
committed an act that would be a felony or an offense of violence 46  
if committed by an adult shall furnish such material to the 47  
superintendent of the bureau. Fingerprints, photographs, or other 48  
descriptive information of a child who is under eighteen years of 49  
age, has not been arrested or otherwise taken into custody for 50  
committing an act that would be a felony or an offense of violence 51

who is not in any other category of child specified in this 52  
division, if committed by an adult, has not been adjudicated a 53  
delinquent child for committing an act that would be a felony or 54  
an offense of violence if committed by an adult, has not been 55  
convicted of or pleaded guilty to committing a felony or an 56  
offense of violence, and is not a child with respect to whom there 57  
is probable cause to believe that the child may have committed an 58  
act that would be a felony or an offense of violence if committed 59  
by an adult shall not be procured by the superintendent or 60  
furnished by any person in charge of any county, multicounty, 61  
municipal, municipal-county, or multicounty-municipal jail or 62  
workhouse, community-based correctional facility, halfway house, 63  
alternative residential facility, or state correctional 64  
institution, except as authorized in section 2151.313 of the 65  
Revised Code. 66

(2) Every clerk of a court of record in this state, other 67  
than the supreme court or a court of appeals, shall send to the 68  
superintendent of the bureau a weekly report containing a summary 69  
of each case involving a felony, involving any crime constituting 70  
a misdemeanor on the first offense and a felony on subsequent 71  
offenses, involving a misdemeanor described in division (A)(1)(a), 72  
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 73  
or involving an adjudication in a case in which a child under 74  
eighteen years of age was alleged to be a delinquent child for 75  
committing an act that would be a felony or an offense of violence 76  
if committed by an adult. The clerk of the court of common pleas 77  
shall include in the report and summary the clerk sends under this 78  
division all information described in divisions (A)(2)(a) to (f) 79  
of this section regarding a case before the court of appeals that 80  
is served by that clerk. The summary shall be written on the 81  
standard forms furnished by the superintendent pursuant to 82  
division (B) of this section and shall include the following 83  
information: 84

(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;	85 86 87
(b) The style and number of the case;	88
(c) The date of arrest, offense, summons, or arraignment;	89
(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;	90 91 92 93 94 95 96 97 98 99 100 101
(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;	102 103
(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.	104 105 106 107
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.	108 109 110 111 112
(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	113 114 115

and in obtaining fingerprints and other means of identification of 116  
all persons arrested on a charge of a felony, any crime 117  
constituting a misdemeanor on the first offense and a felony on 118  
subsequent offenses, or a misdemeanor described in division 119  
(A)(1)(a), (A)(8)(a), or (A)(10)(a) of section 109.572 of the 120  
Revised Code and of all children under eighteen years of age 121  
arrested or otherwise taken into custody for committing an act 122  
that would be a felony or an offense of violence if committed by 123  
an adult. The superintendent also shall file for record the 124  
fingerprint impressions of all persons confined in a county, 125  
multicounty, municipal, municipal-county, or multicounty-municipal 126  
jail or workhouse, community-based correctional facility, halfway 127  
house, alternative residential facility, or state correctional 128  
institution for the violation of state laws and of all children 129  
under eighteen years of age who are confined in a county, 130  
multicounty, municipal, municipal-county, or multicounty-municipal 131  
jail or workhouse, community-based correctional facility, halfway 132  
house, alternative residential facility, or state correctional 133  
institution or in any facility for delinquent children for 134  
committing an act that would be a felony or an offense of violence 135  
if committed by an adult, and any other information that the 136  
superintendent may receive from law enforcement officials of the 137  
state and its political subdivisions. 138

(4) The superintendent shall carry out Chapter 2950. of the 139  
Revised Code with respect to the registration of persons who are 140  
convicted of or plead guilty to a sexually oriented offense or a 141  
child-victim oriented offense and with respect to all other duties 142  
imposed on the bureau under that chapter. 143

(5) The bureau shall perform centralized recordkeeping 144  
functions for criminal history records and services in this state 145  
for purposes of the national crime prevention and privacy compact 146  
set forth in section 109.571 of the Revised Code and is the 147

criminal history record repository as defined in that section for 148  
purposes of that compact. The superintendent or the 149  
superintendent's designee is the compact officer for purposes of 150  
that compact and shall carry out the responsibilities of the 151  
compact officer specified in that compact. 152

(B) The superintendent shall prepare and furnish to every 153  
county, multicounty, municipal, municipal-county, or 154  
multicounty-municipal jail or workhouse, community-based 155  
correctional facility, halfway house, alternative residential 156  
facility, or state correctional institution and to every clerk of 157  
a court in this state specified in division (A)(2) of this section 158  
standard forms for reporting the information required under 159  
division (A) of this section. The standard forms that the 160  
superintendent prepares pursuant to this division may be in a 161  
tangible format, in an electronic format, or in both tangible 162  
formats and electronic formats. 163

(C)(1) The superintendent may operate a center for 164  
electronic, automated, or other data processing for the storage 165  
and retrieval of information, data, and statistics pertaining to 166  
criminals and to children under eighteen years of age who are 167  
adjudicated delinquent children for committing an act that would 168  
be a felony or an offense of violence if committed by an adult, 169  
criminal activity, crime prevention, law enforcement, and criminal 170  
justice, and may establish and operate a statewide communications 171  
network to be known as the Ohio law enforcement gateway to gather 172  
and disseminate information, data, and statistics for the use of 173  
law enforcement agencies and for other uses specified in this 174  
division. The superintendent may gather, store, retrieve, and 175  
disseminate information, data, and statistics that pertain to 176  
children who are under eighteen years of age and that are gathered 177  
pursuant to sections 109.57 to 109.61 of the Revised Code together 178  
with information, data, and statistics that pertain to adults and 179

that are gathered pursuant to those sections. 180

(2) The superintendent or the superintendent's designee shall 181  
gather information of the nature described in division (C)(1) of 182  
this section that pertains to the offense and delinquency history 183  
of a person who has been convicted of, pleaded guilty to, or been 184  
adjudicated a delinquent child for committing a sexually oriented 185  
offense or a child-victim oriented offense for inclusion in the 186  
state registry of sex offenders and child-victim offenders 187  
maintained pursuant to division (A)(1) of section 2950.13 of the 188  
Revised Code and in the internet database operated pursuant to 189  
division (A)(13) of that section and for possible inclusion in the 190  
internet database operated pursuant to division (A)(11) of that 191  
section. 192

(3) In addition to any other authorized use of information, 193  
data, and statistics of the nature described in division (C)(1) of 194  
this section, the superintendent or the superintendent's designee 195  
may provide and exchange the information, data, and statistics 196  
pursuant to the national crime prevention and privacy compact as 197  
described in division (A)(5) of this section. 198

(4) The attorney general may adopt rules under Chapter 119. 199  
of the Revised Code establishing guidelines for the operation of 200  
and participation in the Ohio law enforcement gateway. The rules 201  
may include criteria for granting and restricting access to 202  
information gathered and disseminated through the Ohio law 203  
enforcement gateway. The attorney general may appoint a steering 204  
committee to advise the attorney general in the operation of the 205  
Ohio law enforcement gateway that is comprised of persons who are 206  
representatives of the criminal justice agencies in this state 207  
that use the Ohio law enforcement gateway and is chaired by the 208  
superintendent or the superintendent's designee. 209

(D)(1) The following are not public records under section 210  
149.43 of the Revised Code: 211

(a) Information and materials furnished to the superintendent pursuant to division (A) of this section;	212 213
(b) Information, data, and statistics gathered or disseminated through the Ohio law enforcement gateway pursuant to division (C)(1) of this section;	214 215 216
(c) Information and materials furnished to any board or person under division (F) or (G) of this section.	217 218
(2) The superintendent or the superintendent's designee shall gather and retain information so furnished under division (A) of this section that pertains to the offense and delinquency history of a person who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense for the purposes described in division (C)(2) of this section.	219 220 221 222 223 224 225
(E) The attorney general shall adopt rules, in accordance with Chapter 119. of the Revised Code, setting forth the procedure by which a person may receive or release information gathered by the superintendent pursuant to division (A) of this section. A reasonable fee may be charged for this service. If a temporary employment service submits a request for a determination of whether a person the service plans to refer to an employment position has been convicted of or pleaded guilty to an offense listed in division (A)(1), (3), (4), (5), or (6) of section 109.572 of the Revised Code, the request shall be treated as a single request and only one fee shall be charged.	226 227 228 229 230 231 232 233 234 235 236
(F)(1) As used in division (F)(2) of this section, "head start agency" means an entity in this state that has been approved to be an agency for purposes of subchapter II of the "Community Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, as amended.	237 238 239 240 241
(2)(a) In addition to or in conjunction with any request that	242



is required to be made under section 109.572, 2151.86, 3301.32, 243  
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 244  
5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised 245  
Code or that is made under section 3314.41, 3319.392, ~~or~~ 3326.25, 246  
or 3328.20 of the Revised Code, the board of education of any 247  
school district; the director of developmental disabilities; any 248  
county board of developmental disabilities; any entity under 249  
contract with a county board of developmental disabilities; the 250  
chief administrator of any chartered nonpublic school; the chief 251  
administrator of any home health agency; the chief administrator 252  
of or person operating any child day-care center, type A family 253  
day-care home, or type B family day-care home licensed or 254  
certified under Chapter 5104. of the Revised Code; the 255  
administrator of any type C family day-care home certified 256  
pursuant to Section 1 of Sub. H.B. 62 of the 121st general 257  
assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general 258  
assembly; the chief administrator of any head start agency; the 259  
executive director of a public children services agency; a private 260  
company described in section 3314.41, 3319.392, ~~or~~ 3326.25, or 261  
3328.20 of the Revised Code; or an employer described in division 262  
(J)(2) of section 3327.10 of the Revised Code may request that the 263  
superintendent of the bureau investigate and determine, with 264  
respect to any individual who has applied for employment in any 265  
position after October 2, 1989, or any individual wishing to apply 266  
for employment with a board of education may request, with regard 267  
to the individual, whether the bureau has any information gathered 268  
under division (A) of this section that pertains to that 269  
individual. On receipt of the request, the superintendent shall 270  
determine whether that information exists and, upon request of the 271  
person, board, or entity requesting information, also shall 272  
request from the federal bureau of investigation any criminal 273  
records it has pertaining to that individual. The superintendent 274  
or the superintendent's designee also may request criminal history 275

records from other states or the federal government pursuant to 276  
the national crime prevention and privacy compact set forth in 277  
section 109.571 of the Revised Code. Within thirty days of the 278  
date that the superintendent receives a request, the 279  
superintendent shall send to the board, entity, or person a report 280  
of any information that the superintendent determines exists, 281  
including information contained in records that have been sealed 282  
under section 2953.32 of the Revised Code, and, within thirty days 283  
of its receipt, shall send the board, entity, or person a report 284  
of any information received from the federal bureau of 285  
investigation, other than information the dissemination of which 286  
is prohibited by federal law. 287

(b) When a board of education is required to receive 288  
information under this section as a prerequisite to employment of 289  
an individual pursuant to section 3319.39 of the Revised Code, it 290  
may accept a certified copy of records that were issued by the 291  
bureau of criminal identification and investigation and that are 292  
presented by an individual applying for employment with the 293  
district in lieu of requesting that information itself. In such a 294  
case, the board shall accept the certified copy issued by the 295  
bureau in order to make a photocopy of it for that individual's 296  
employment application documents and shall return the certified 297  
copy to the individual. In a case of that nature, a district only 298  
shall accept a certified copy of records of that nature within one 299  
year after the date of their issuance by the bureau. 300

(c) Notwithstanding division (F)(2)(a) of this section, in 301  
the case of a request under section 3319.39, 3319.391, or 3327.10 302  
of the Revised Code only for criminal records maintained by the 303  
federal bureau of investigation, the superintendent shall not 304  
determine whether any information gathered under division (A) of 305  
this section exists on the person for whom the request is made. 306

(3) The state board of education may request, with respect to 307

any individual who has applied for employment after October 2, 308  
1989, in any position with the state board or the department of 309  
education, any information that a school district board of 310  
education is authorized to request under division (F)(2) of this 311  
section, and the superintendent of the bureau shall proceed as if 312  
the request has been received from a school district board of 313  
education under division (F)(2) of this section. 314

(4) When the superintendent of the bureau receives a request 315  
for information under section 3319.291 of the Revised Code, the 316  
superintendent shall proceed as if the request has been received 317  
from a school district board of education and shall comply with 318  
divisions (F)(2)(a) and (c) of this section. 319

(5) When a recipient of a classroom reading improvement grant 320  
paid under section 3301.86 of the Revised Code requests, with 321  
respect to any individual who applies to participate in providing 322  
any program or service funded in whole or in part by the grant, 323  
the information that a school district board of education is 324  
authorized to request under division (F)(2)(a) of this section, 325  
the superintendent of the bureau shall proceed as if the request 326  
has been received from a school district board of education under 327  
division (F)(2)(a) of this section. 328

(G) In addition to or in conjunction with any request that is 329  
required to be made under section 3701.881, 3712.09, 3721.121, or 330  
3722.151 of the Revised Code with respect to an individual who has 331  
applied for employment in a position that involves providing 332  
direct care to an older adult, the chief administrator of a home 333  
health agency, hospice care program, home licensed under Chapter 334  
3721. of the Revised Code, adult day-care program operated 335  
pursuant to rules adopted under section 3721.04 of the Revised 336  
Code, or adult care facility may request that the superintendent 337  
of the bureau investigate and determine, with respect to any 338  
individual who has applied after January 27, 1997, for employment 339

in a position that does not involve providing direct care to an 340  
older adult, whether the bureau has any information gathered under 341  
division (A) of this section that pertains to that individual. 342

In addition to or in conjunction with any request that is 343  
required to be made under section 173.27 of the Revised Code with 344  
respect to an individual who has applied for employment in a 345  
position that involves providing ombudsperson services to 346  
residents of long-term care facilities or recipients of 347  
community-based long-term care services, the state long-term care 348  
ombudsperson, ombudsperson's designee, or director of health may 349  
request that the superintendent investigate and determine, with 350  
respect to any individual who has applied for employment in a 351  
position that does not involve providing such ombudsperson 352  
services, whether the bureau has any information gathered under 353  
division (A) of this section that pertains to that applicant. 354

In addition to or in conjunction with any request that is 355  
required to be made under section 173.394 of the Revised Code with 356  
respect to an individual who has applied for employment in a 357  
position that involves providing direct care to an individual, the 358  
chief administrator of a community-based long-term care agency may 359  
request that the superintendent investigate and determine, with 360  
respect to any individual who has applied for employment in a 361  
position that does not involve providing direct care, whether the 362  
bureau has any information gathered under division (A) of this 363  
section that pertains to that applicant. 364

On receipt of a request under this division, the 365  
superintendent shall determine whether that information exists 366  
and, on request of the individual requesting information, shall 367  
also request from the federal bureau of investigation any criminal 368  
records it has pertaining to the applicant. The superintendent or 369  
the superintendent's designee also may request criminal history 370  
records from other states or the federal government pursuant to 371

the national crime prevention and privacy compact set forth in 372  
section 109.571 of the Revised Code. Within thirty days of the 373  
date a request is received, the superintendent shall send to the 374  
requester a report of any information determined to exist, 375  
including information contained in records that have been sealed 376  
under section 2953.32 of the Revised Code, and, within thirty days 377  
of its receipt, shall send the requester a report of any 378  
information received from the federal bureau of investigation, 379  
other than information the dissemination of which is prohibited by 380  
federal law. 381

(H) Information obtained by a government entity or person 382  
under this section is confidential and shall not be released or 383  
disseminated. 384

(I) The superintendent may charge a reasonable fee for 385  
providing information or criminal records under division (F)(2) or 386  
(G) of this section. 387

(J) As used in this section, "sexually oriented offense" and 388  
"child-victim oriented offense" have the same meanings as in 389  
section 2950.01 of the Revised Code. 390

**Sec. 3313.61.** (A) A diploma shall be granted by the board of 391  
education of any city, exempted village, or local school district 392  
that operates a high school to any person to whom all of the 393  
following apply: 394

(1) The person has successfully completed the curriculum in 395  
any high school or the individualized education program developed 396  
for the person by any high school pursuant to section 3323.08 of 397  
the Revised Code, or has qualified under division (D) or (F) of 398  
section 3313.603 of the Revised Code, provided that no school 399  
district shall require a student to remain in school for any 400  
specific number of semesters or other terms if the student 401  
completes the required curriculum early; 402

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

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

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

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

(b) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has attained on the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code, except to the extent that the person is excused from some portion of that assessment system pursuant to section 3313.532 of the Revised Code or division (H) or (L) of this section.

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

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

(B) In lieu of a diploma granted under division (A) of this

section, an honors diploma shall be granted, in accordance with 434  
rules of the state board, by any such district board to anyone who 435  
accomplishes all of the following: 436

(1) Successfully completes the curriculum in any high school 437  
or the individualized education program developed for the person 438  
by any high school pursuant to section 3323.08 of the Revised 439  
Code; 440

(2) Subject to section 3313.614 of the Revised Code, has met 441  
the assessment requirements of division (B)(2)(a) or (b) of this 442  
section, as applicable. 443

(a) If the person entered the ninth grade prior to the date 444  
prescribed by rule of the state board of education under division 445  
(E)(2) of section 3301.0712 of the Revised Code, the person 446  
either: 447

(i) Has attained at least the applicable scores designated 448  
under division (B)(1) of section 3301.0710 of the Revised Code on 449  
all the assessments required by that division; 450

(ii) Has satisfied the alternative conditions prescribed in 451  
section 3313.615 of the Revised Code. 452

(b) If the person entered the ninth grade on or after the 453  
date prescribed by rule of the state board under division (E)(2) 454  
of section 3301.0712 of the Revised Code, the person has attained 455  
on the entire assessment system prescribed under division (B)(2) 456  
of section 3301.0710 of the Revised Code at least the required 457  
passing composite score, designated under division (C)(1) of 458  
section 3301.0712 of the Revised Code. 459

(3) Has met additional criteria established by the state 460  
board for the granting of such a diploma. 461

An honors diploma shall not be granted to a student who is 462  
subject to the Ohio core curriculum prescribed in division (C) of 463

section 3313.603 of the Revised Code but elects the option of 464  
division (D) or (F) of that section. Except as provided in 465  
divisions (C), (E), and (J) of this section, no honors diploma 466  
shall be granted to anyone failing to comply with this division 467  
and no more than one honors diploma shall be granted to any 468  
student under this division. 469

The state board shall adopt rules prescribing the granting of 470  
honors diplomas under this division. These rules may prescribe the 471  
granting of honors diplomas that recognize a student's achievement 472  
as a whole or that recognize a student's achievement in one or 473  
more specific subjects or both. The rules may prescribe the 474  
granting of an honors diploma recognizing technical expertise for 475  
a career-technical student. In any case, the rules shall designate 476  
two or more criteria for the granting of each type of honors 477  
diploma the board establishes under this division and the number 478  
of such criteria that must be met for the granting of that type of 479  
diploma. The number of such criteria for any type of honors 480  
diploma shall be at least one less than the total number of 481  
criteria designated for that type and no one or more particular 482  
criteria shall be required of all persons who are to be granted 483  
that type of diploma. 484

(C) Any district board administering any of the assessments 485  
required by section 3301.0710 of the Revised Code to any person 486  
requesting to take such assessment pursuant to division (B)(8)(b) 487  
of section 3301.0711 of the Revised Code shall award a diploma to 488  
such person if the person attains at least the applicable scores 489  
designated under division (B)(1) of section 3301.0710 of the 490  
Revised Code on all the assessments administered and if the person 491  
has previously attained the applicable scores on all the other 492  
assessments required by division (B)(1) of that section or has 493  
been exempted or excused from attaining the applicable score on 494  
any such assessment pursuant to division (H) or (L) of this 495



section or from taking any such assessment pursuant to section 496  
3313.532 of the Revised Code. 497

(D) Each diploma awarded under this section shall be signed 498  
by the president and treasurer of the issuing board, the 499  
superintendent of schools, and the principal of the high school. 500  
Each diploma shall bear the date of its issue, be in such form as 501  
the district board prescribes, and be paid for out of the 502  
district's general fund. 503

(E) A person who is a resident of Ohio and is eligible under 504  
state board of education minimum standards to receive a high 505  
school diploma based in whole or in part on credits earned while 506  
an inmate of a correctional institution operated by the state or 507  
any political subdivision thereof, shall be granted such diploma 508  
by the correctional institution operating the programs in which 509  
such credits were earned, and by the board of education of the 510  
school district in which the inmate resided immediately prior to 511  
the inmate's placement in the institution. The diploma granted by 512  
the correctional institution shall be signed by the director of 513  
the institution, and by the person serving as principal of the 514  
institution's high school and shall bear the date of issue. 515

(F) Persons who are not residents of Ohio but who are inmates 516  
of correctional institutions operated by the state or any 517  
political subdivision thereof, and who are eligible under state 518  
board of education minimum standards to receive a high school 519  
diploma based in whole or in part on credits earned while an 520  
inmate of the correctional institution, shall be granted a diploma 521  
by the correctional institution offering the program in which the 522  
credits were earned. The diploma granted by the correctional 523  
institution shall be signed by the director of the institution and 524  
by the person serving as principal of the institution's high 525  
school and shall bear the date of issue. 526

(G) The state board of education shall provide by rule for 527

the administration of the assessments required by section 528  
3301.0710 of the Revised Code to inmates of correctional 529  
institutions. 530

(H) Any person to whom all of the following apply shall be 531  
exempted from attaining the applicable score on the assessment in 532  
social studies designated under division (B)(1) of section 533  
3301.0710 of the Revised Code, any social studies end-of-course 534  
examination required under division (B)(2) of that section if such 535  
an exemption is prescribed by rule of the state board under 536  
division (E)(4) of section 3301.0712 of the Revised Code, or the 537  
test in citizenship designated under former division (B) of 538  
section 3301.0710 of the Revised Code as it existed prior to 539  
September 11, 2001: 540

(1) The person is not a citizen of the United States; 541

(2) The person is not a permanent resident of the United 542  
States; 543

(3) The person indicates no intention to reside in the United 544  
States after the completion of high school. 545

(I) Notwithstanding division (D) of section 3311.19 and 546  
division (D) of section 3311.52 of the Revised Code, this section 547  
and section 3311.611 of the Revised Code do not apply to the board 548  
of education of any joint vocational school district or any 549  
cooperative education school district established pursuant to 550  
divisions (A) to (C) of section 3311.52 of the Revised Code. 551

(J) Upon receipt of a notice under division (D) of section 552  
3325.08 or division (D) of section 3328.25 of the Revised Code 553  
that a student has received a diploma under ~~that~~ either section, 554  
the board of education receiving the notice may grant a high 555  
school diploma under this section to the student, except that such 556  
board shall grant the student a diploma if the student meets the 557  
graduation requirements that the student would otherwise have had 558

to meet to receive a diploma from the district. The diploma 559  
granted under this section shall be of the same type the notice 560  
indicates the student received under section 3325.08 or 3328.25 of 561  
the Revised Code. 562

(K) As used in this division, "limited English proficient 563  
student" has the same meaning as in division (C)(3) of section 564  
3301.0711 of the Revised Code. 565

Notwithstanding division (C)(3) of section 3301.0711 of the 566  
Revised Code, no limited English proficient student who has not 567  
either attained the applicable scores designated under division 568  
(B)(1) of section 3301.0710 of the Revised Code on all the 569  
assessments required by that division, or attained the composite 570  
score designated for the assessments required by division (B)(2) 571  
of that section, shall be awarded a diploma under this section. 572

(L) Any student described by division (A)(1) of this section 573  
may be awarded a diploma without attaining the applicable scores 574  
designated on the assessments prescribed under division (B) of 575  
section 3301.0710 of the Revised Code provided an individualized 576  
education program specifically exempts the student from attaining 577  
such scores. This division does not negate the requirement for 578  
such a student to take all such assessments or alternate 579  
assessments required by division (C)(1) of section 3301.0711 of 580  
the Revised Code for the purpose of assessing student progress as 581  
required by federal law. 582

**Sec. 3317.03.** The information certified and verified under 583  
this section shall be used to calculate payments under this 584  
chapter and Chapter 3306. of the Revised Code. 585

(A) The superintendent of each city, local, and exempted 586  
village school district and of each educational service center 587  
shall, for the schools under the superintendent's supervision, 588  
certify to the state board of education on or before the fifteenth 589

day of October in each year for the first full school week in 590  
October the average daily membership of students receiving 591  
services from schools under the superintendent's supervision, and 592  
the numbers of other students entitled to attend school in the 593  
district under section 3313.64 or 3313.65 of the Revised Code the 594  
superintendent is required to report under this section, so that 595  
the department of education can calculate the district's formula 596  
ADM. If a school under the superintendent's supervision is closed 597  
for one or more days during that week due to hazardous weather 598  
conditions or other circumstances described in the first paragraph 599  
of division (B) of section 3317.01 of the Revised Code, the 600  
superintendent may apply to the superintendent of public 601  
instruction for a waiver, under which the superintendent of public 602  
instruction may exempt the district superintendent from certifying 603  
the average daily membership for that school for that week and 604  
specify an alternate week for certifying the average daily 605  
membership of that school. 606

The average daily membership during such week shall consist 607  
of the sum of the following: 608

(1) On an FTE basis, the number of students in grades 609  
kindergarten through twelve receiving any educational services 610  
from the district, except that the following categories of 611  
students shall not be included in the determination: 612

(a) Students enrolled in adult education classes; 613

(b) Adjacent or other district students enrolled in the 614  
district under an open enrollment policy pursuant to section 615  
3313.98 of the Revised Code; 616

(c) Students receiving services in the district pursuant to a 617  
compact, cooperative education agreement, or a contract, but who 618  
are entitled to attend school in another district pursuant to 619  
section 3313.64 or 3313.65 of the Revised Code; 620

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code;	621 622
(e) Students receiving services in the district through a scholarship awarded under section 3310.41 of the Revised Code.	623 624
(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:	625 626 627 628 629
(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;	630 631 632 633
(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;	634 635 636
(c) A college pursuant to 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;	637 638 639 640 641
(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	642 643 644
(e) An educational service center or cooperative education district;	645 646
(f) Another school district under a cooperative education agreement, compact, or contract;	647 648
(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	649 650

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

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

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

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

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

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

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter and Chapter 3306. of the Revised Code, in addition to the

average daily membership, each superintendent shall report 682  
separately the following student counts for the same week for 683  
which average daily membership is certified: 684

(1) The total average daily membership in regular learning 685  
day classes included in the report under division (A)(1) or (2) of 686  
this section for each of the individual grades kindergarten 687  
through twelve in schools under the superintendent's supervision; 688

(2) The number of all preschool children with disabilities 689  
enrolled as of the first day of December in classes in the 690  
district that are eligible for approval under division (B) of 691  
section 3317.05 of the Revised Code and the number of those 692  
classes, which shall be reported not later than the fifteenth day 693  
of December, in accordance with rules adopted under that section; 694

(3) The number of children entitled to attend school in the 695  
district pursuant to section 3313.64 or 3313.65 of the Revised 696  
Code who are: 697

(a) Participating in a pilot project scholarship program 698  
established under sections 3313.974 to 3313.979 of the Revised 699  
Code as described in division (I)(2)(a) or (b) of this section; 700

(b) Enrolled in a college under Chapter 3365. of the Revised 701  
Code, except when the student is enrolled in the college while 702  
also enrolled in a community school pursuant to Chapter 3314. or a 703  
science, technology, engineering, and mathematics school 704  
established under Chapter 3326. of the Revised Code; 705

(c) Enrolled in an adjacent or other school district under 706  
section 3313.98 of the Revised Code; 707

(d) Enrolled in a community school established under Chapter 708  
3314. of the Revised Code that is not an internet- or 709  
computer-based community school as defined in section 3314.02 of 710  
the Revised Code, including any participation in a college 711  
pursuant to Chapter 3365. of the Revised Code while enrolled in 712

such community school;	713
(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;	714 715 716 717
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	718 719
(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;	720 721 722
(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;	723 724 725
(i) Participating in a program operated by a county DD board or a state institution;	726 727
(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;	728 729 730 731
<u>(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code.</u>	732 733
(4) The number of pupils enrolled in joint vocational schools;	734 735
(5) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division (D)(1) of section 3306.02 of the Revised Code;	736 737 738 739 740
(6) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section	741 742



receiving special education services for category two disabilities 743  
described in division (D)(2) of section 3306.02 of the Revised 744  
Code; 745

(7) The average daily membership of children with 746  
disabilities reported under division (A)(1) or (2) of this section 747  
receiving special education services for category three 748  
disabilities described in division (D)(3) of section 3306.02 of 749  
the Revised Code; 750

(8) The average daily membership of children with 751  
disabilities reported under division (A)(1) or (2) of this section 752  
receiving special education services for category four 753  
disabilities described in division (D)(4) of section 3306.02 of 754  
the Revised Code; 755

(9) The average daily membership of children with 756  
disabilities reported under division (A)(1) or (2) of this section 757  
receiving special education services for the category five 758  
disabilities described in division (D)(5) of section 3306.02 of 759  
the Revised Code; 760

(10) The combined average daily membership of children with 761  
disabilities reported under division (A)(1) or (2) and under 762  
division (B)(3)(h) of this section receiving special education 763  
services for category six disabilities described in division 764  
(D)(6) of section 3306.02 of the Revised Code, including children 765  
attending a special education program operated by an alternative 766  
public provider or a registered private provider with a 767  
scholarship awarded under section 3310.41 of the Revised Code; 768

(11) The average daily membership of pupils reported under 769  
division (A)(1) or (2) of this section enrolled in category one 770  
vocational education programs or classes, described in division 771  
(A) of section 3317.014 of the Revised Code, operated by the 772  
school district or by another district, other than a joint 773

vocational school district, or by an educational service center, 774  
excluding any student reported under division (B)(3)(e) of this 775  
section as enrolled in an internet- or computer-based community 776  
school, notwithstanding division (C) of section 3317.02 of the 777  
Revised Code and division (C)(3) of this section; 778

(12) The average daily membership of pupils reported under 779  
division (A)(1) or (2) of this section enrolled in category two 780  
vocational education programs or services, described in division 781  
(B) of section 3317.014 of the Revised Code, operated by the 782  
school district or another school district, other than a joint 783  
vocational school district, or by an educational service center, 784  
excluding any student reported under division (B)(3)(e) of this 785  
section as enrolled in an internet- or computer-based community 786  
school, notwithstanding division (C) of section 3317.02 of the 787  
Revised Code and division (C)(3) of this section; 788

Beginning with fiscal year 2010, vocational education ADM 789  
shall not be used to calculate a district's funding but shall be 790  
reported under divisions (B)(11) and (12) of this section for 791  
statistical purposes. 792

(13) The average number of children transported by the school 793  
district on board-owned or contractor-owned and -operated buses, 794  
reported in accordance with rules adopted by the department of 795  
education; 796

(14)(a) The number of children, other than preschool children 797  
with disabilities, the district placed with a county DD board in 798  
fiscal year 1998; 799

(b) The number of children with disabilities, other than 800  
preschool children with disabilities, placed with a county DD 801  
board in the current fiscal year to receive special education 802  
services for the category one disability described in division 803  
(D)(1) of section 3306.02 of the Revised Code; 804

(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;

(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;

(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;

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

(g) 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 six disabilities described in division (D)(6) of section 3306.02 of the Revised Code.

(C)(1) The average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section. Each student enrolled

in kindergarten shall be counted as one full-time equivalent 836  
student regardless of whether the student is enrolled in a 837  
part-day or all-day kindergarten class. 838

(2) A student enrolled in a community school established 839  
under Chapter 3314. ~~or~~ a science, technology, engineering, and 840  
mathematics school established under Chapter 3326.; or a 841  
college-preparatory boarding school established under Chapter 842  
3328. of the Revised Code shall be counted in the formula ADM and, 843  
if applicable, the category one, two, three, four, five, or six 844  
special education ADM of the school district in which the student 845  
is entitled to attend school under section 3313.64 or 3313.65 of 846  
the Revised Code for the same proportion of the school year that 847  
the student is counted in the enrollment of the community school 848  
~~or the~~ science, technology, engineering, and mathematics school; 849  
or college-preparatory boarding school for purposes of section 850  
3314.08 ~~or~~, 3326.33, or 3328.34 of the Revised Code. 851  
Notwithstanding the number of students reported pursuant to 852  
division (B)(3)(d), (e), ~~or (j), or (k)~~ of this section, the 853  
department may adjust the formula ADM of a school district to 854  
account for students entitled to attend school in the district 855  
under section 3313.64 or 3313.65 of the Revised Code who are 856  
enrolled in a community school ~~or a~~ science, technology, 857  
engineering, and mathematics school; or college-preparatory 858  
boarding school for only a portion of the school year. 859

(3) No child shall be counted as more than a total of one 860  
child in the sum of the average daily memberships of a school 861  
district under division (A), divisions (B)(1) to (12), or division 862  
(D) of this section, except as follows: 863

(a) A child with a disability described in division (D) of 864  
section 3306.02 of the Revised Code may be counted both in formula 865  
ADM and in category one, two, three, four, five, or six special 866  
education ADM and, if applicable, in category one or two 867

vocational education ADM. As provided in division (C) of section 868  
3317.02 of the Revised Code, such a child shall be counted in 869  
category one, two, three, four, five, or six special education ADM 870  
in the same proportion that the child is counted in formula ADM. 871

(b) A child enrolled in vocational education programs or 872  
classes described in section 3317.014 of the Revised Code may be 873  
counted both in formula ADM and category one or two vocational 874  
education ADM and, if applicable, in category one, two, three, 875  
four, five, or six special education ADM. Such a child shall be 876  
counted in category one or two vocational education ADM in the 877  
same proportion as the percentage of time that the child spends in 878  
the vocational education programs or classes. 879

(4) Based on the information reported under this section, the 880  
department of education shall determine the total student count, 881  
as defined in section 3301.011 of the Revised Code, for each 882  
school district. 883

(D)(1) The superintendent of each joint vocational school 884  
district shall certify to the superintendent of public instruction 885  
on or before the fifteenth day of October in each year for the 886  
first full school week in October the formula ADM, for purposes of 887  
section 3318.42 of the Revised Code and for any other purpose 888  
prescribed by law for which "formula ADM" of the joint vocational 889  
district is a factor. If a school operated by the joint vocational 890  
school district is closed for one or more days during that week 891  
due to hazardous weather conditions or other circumstances 892  
described in the first paragraph of division (B) of section 893  
3317.01 of the Revised Code, the superintendent may apply to the 894  
superintendent of public instruction for a waiver, under which the 895  
superintendent of public instruction may exempt the district 896  
superintendent from certifying the formula ADM for that school for 897  
that week and specify an alternate week for certifying the formula 898  
ADM of that school. 899

The formula ADM, except as otherwise provided in this 900  
division, shall consist of the average daily membership during 901  
such week, on an FTE basis, of the number of students receiving 902  
any educational services from the district, including students 903  
enrolled in a community school established under Chapter 3314. or 904  
a science, technology, engineering, and mathematics school 905  
established under Chapter 3326. of the Revised Code who are 906  
attending the joint vocational district under an agreement between 907  
the district board of education and the governing authority of the 908  
community school or the governing body of the science, technology, 909  
engineering, and mathematics school and are entitled to attend 910  
school in a city, local, or exempted village school district whose 911  
territory is part of the territory of the joint vocational 912  
district. 913

The following categories of students shall not be included in 914  
the determination made under division (D)(1) of this section: 915

(a) Students enrolled in adult education classes; 916

(b) Adjacent or other district joint vocational students 917  
enrolled in the district under an open enrollment policy pursuant 918  
to section 3313.98 of the Revised Code; 919

(c) Students receiving services in the district pursuant to a 920  
compact, cooperative education agreement, or a contract, but who 921  
are entitled to attend school in a city, local, or exempted 922  
village school district whose territory is not part of the 923  
territory of the joint vocational district; 924

(d) Students for whom tuition is payable pursuant to sections 925  
3317.081 and 3323.141 of the Revised Code. 926

(2) In addition to the formula ADM, each superintendent shall 927  
report separately the average daily membership included in the 928  
report under division (D)(1) of this section for each of the 929  
following categories of students for the same week for which 930

formula ADM is certified:	931
(a) Students enrolled in each individual grade included in the joint vocational district schools;	932 933
(b) Children with disabilities receiving special education services for the category one disability described in division (D)(1) of section 3306.02 of the Revised Code;	934 935 936
(c) Children with disabilities receiving special education services for the category two disabilities described in division (D)(2) of section 3306.02 of the Revised Code;	937 938 939
(d) Children with disabilities receiving special education services for category three disabilities described in division (D)(3) of section 3306.02 of the Revised Code;	940 941 942
(e) Children with disabilities receiving special education services for category four disabilities described in division (D)(4) of section 3306.02 of the Revised Code;	943 944 945
(f) Children with disabilities receiving special education services for the category five disabilities described in division (D)(5) of section 3306.02 of the Revised Code;	946 947 948
(g) Children with disabilities receiving special education services for category six disabilities described in division (D)(6) of section 3306.02 of the Revised Code;	949 950 951
(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;	952 953 954
(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.	955 956 957
The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled	958 959 960

to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

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

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

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

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

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



termination of war or their honorable discharge. 992

If, however, any veteran described by division (E)(4) of this 993  
section elects to enroll in special courses organized for veterans 994  
for whom tuition is paid under the provisions of federal laws, or 995  
otherwise, that veteran shall not be included in average daily 996  
membership. 997

Notwithstanding division (E)(3) of this section, the 998  
membership of any school may include a pupil who did not take an 999  
assessment required by section 3301.0711 of the Revised Code if 1000  
the superintendent of public instruction grants a waiver from the 1001  
requirement to take the assessment to the specific pupil and a 1002  
parent is not paying tuition for the pupil pursuant to section 1003  
3313.6410 of the Revised Code. The superintendent may grant such a 1004  
waiver only for good cause in accordance with rules adopted by the 1005  
state board of education. 1006

Except as provided in divisions (B)(2) and (F) of this 1007  
section, the average daily membership figure of any local, city, 1008  
exempted village, or joint vocational school district shall be 1009  
determined by dividing the figure representing the sum of the 1010  
number of pupils enrolled during each day the school of attendance 1011  
is actually open for instruction during the week for which the 1012  
average daily membership is being certified by the total number of 1013  
days the school was actually open for instruction during that 1014  
week. For purposes of state funding, "enrolled" persons are only 1015  
those pupils who are attending school, those who have attended 1016  
school during the current school year and are absent for 1017  
authorized reasons, and those children with disabilities currently 1018  
receiving home instruction. 1019

The average daily membership figure of any cooperative 1020  
education school district shall be determined in accordance with 1021  
rules adopted by the state board of education. 1022

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

(2) If on the first school day of April the total number of classes or units for preschool children with disabilities that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve 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 section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter

3314. ~~or~~i a science, technology, engineering, and mathematics 1055  
school established under Chapter 3326.; or a college-preparatory 1056  
boarding school established under Chapter 3328. of the Revised 1057  
Code is not included in the formula ADM certified for the school 1058  
district in which the student is entitled to attend school under 1059  
section 3313.64 or 3313.65 of the Revised Code, the department of 1060  
education shall adjust the formula ADM of that school district to 1061  
include the student in accordance with division (C)(2) of this 1062  
section, and shall recalculate the school district's payments 1063  
under this chapter and Chapter 3306. of the Revised Code for the 1064  
entire fiscal year on the basis of that adjusted formula ADM. This 1065  
requirement applies regardless of whether the student was 1066  
enrolled, as defined in division (E) of this section, in the 1067  
community school ~~or the~~i science, technology, engineering, and 1068  
mathematics school; or college-preparatory boarding school during 1069  
the week for which the formula ADM is being certified. 1070

(4) If a student awarded an educational choice scholarship is 1071  
not included in the formula ADM of the school district from which 1072  
the department deducts funds for the scholarship under section 1073  
3310.08 of the Revised Code, the department shall adjust the 1074  
formula ADM of that school district to include the student to the 1075  
extent necessary to account for the deduction, and shall 1076  
recalculate the school district's payments under this chapter and 1077  
Chapter 3306. of the Revised Code for the entire fiscal year on 1078  
the basis of that adjusted formula ADM. This requirement applies 1079  
regardless of whether the student was enrolled, as defined in 1080  
division (E) of this section, in the chartered nonpublic school, 1081  
the school district, or a community school during the week for 1082  
which the formula ADM is being certified. 1083

(G)(1)(a) The superintendent of an institution operating a 1084  
special education program pursuant to section 3323.091 of the 1085  
Revised Code shall, for the programs under such superintendent's 1086

supervision, certify to the state board of education, in the 1087  
manner prescribed by the superintendent of public instruction, 1088  
both of the following: 1089

(i) The average daily membership of all children with 1090  
disabilities other than preschool children with disabilities 1091  
receiving services at the institution for each category of 1092  
disability described in divisions (D)(1) to (6) of section 3306.02 1093  
of the Revised Code; 1094

(ii) The average daily membership of all preschool children 1095  
with disabilities in classes or programs approved annually by the 1096  
department of education for unit funding under section 3317.05 of 1097  
the Revised Code. 1098

(b) The superintendent of an institution with vocational 1099  
education units approved under division (A) of section 3317.05 of 1100  
the Revised Code shall, for the units under the superintendent's 1101  
supervision, certify to the state board of education the average 1102  
daily membership in those units, in the manner prescribed by the 1103  
superintendent of public instruction. 1104

(2) The superintendent of each county DD board that maintains 1105  
special education classes under section 3317.20 of the Revised 1106  
Code or units approved pursuant to section 3317.05 of the Revised 1107  
Code shall do both of the following: 1108

(a) Certify to the state board, in the manner prescribed by 1109  
the board, the average daily membership in classes under section 1110  
3317.20 of the Revised Code for each school district that has 1111  
placed children in the classes; 1112

(b) Certify to the state board, in the manner prescribed by 1113  
the board, the number of all preschool children with disabilities 1114  
enrolled as of the first day of December in classes eligible for 1115  
approval under division (B) of section 3317.05 of the Revised 1116  
Code, and the number of those classes. 1117

(3)(a) If on the first school day of April the number of 1118  
classes or units maintained for preschool children with 1119  
disabilities by the county DD board that are eligible for approval 1120  
under division (B) of section 3317.05 of the Revised Code is 1121  
greater than the number of units approved for the year under that 1122  
division, the superintendent shall make the certification required 1123  
by this section for that day. 1124

(b) If the department determines that additional classes or 1125  
units can be approved for the fiscal year within any limitations 1126  
set forth in the acts appropriating moneys for the funding of the 1127  
classes and units described in division (G)(3)(a) of this section, 1128  
the department shall approve and fund additional units for the 1129  
fiscal year on the basis of such average daily membership. For 1130  
each unit so approved, the department shall pay an amount computed 1131  
in the manner prescribed in sections 3317.052 and 3317.053 of the 1132  
Revised Code. 1133

(H) Except as provided in division (I) of this section, when 1134  
any city, local, or exempted village school district provides 1135  
instruction for a nonresident pupil whose attendance is 1136  
unauthorized attendance as defined in section 3327.06 of the 1137  
Revised Code, that pupil's membership shall not be included in 1138  
that district's membership figure used in the calculation of that 1139  
district's formula ADM or included in the determination of any 1140  
unit approved for the district under section 3317.05 of the 1141  
Revised Code. The reporting official shall report separately the 1142  
average daily membership of all pupils whose attendance in the 1143  
district is unauthorized attendance, and the membership of each 1144  
such pupil shall be credited to the school district in which the 1145  
pupil is entitled to attend school under division (B) of section 1146  
3313.64 or section 3313.65 of the Revised Code as determined by 1147  
the department of education. 1148

(I)(1) A city, local, exempted village, or joint vocational 1149

school district admitting a scholarship student of a pilot project 1150  
district pursuant to division (C) of section 3313.976 of the 1151  
Revised Code may count such student in its average daily 1152  
membership. 1153

(2) In any year for which funds are appropriated for pilot 1154  
project scholarship programs, a school district implementing a 1155  
state-sponsored pilot project scholarship program that year 1156  
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 1157  
count in average daily membership: 1158

(a) All children residing in the district and utilizing a 1159  
scholarship to attend kindergarten in any alternative school, as 1160  
defined in section 3313.974 of the Revised Code; 1161

(b) All children who were enrolled in the district in the 1162  
preceding year who are utilizing a scholarship to attend any such 1163  
alternative school. 1164

(J) The superintendent of each cooperative education school 1165  
district shall certify to the superintendent of public 1166  
instruction, in a manner prescribed by the state board of 1167  
education, the applicable average daily memberships for all 1168  
students in the cooperative education district, also indicating 1169  
the city, local, or exempted village district where each pupil is 1170  
entitled to attend school under section 3313.64 or 3313.65 of the 1171  
Revised Code. 1172

(K) If the superintendent of public instruction determines 1173  
that a component of the average daily membership certified or 1174  
reported by a district superintendent, or other reporting entity, 1175  
is not correct, the superintendent of public instruction may order 1176  
that the formula ADM used for the purposes of payments under any 1177  
section of Title XXXVIII of the Revised Code be adjusted in the 1178  
amount of the error. 1179

<u>Sec. 3318.60. (A) As used in this section:</u>	1180
<u>(1) "Acquisition of classroom facilities" means constructing,</u>	1181
<u>reconstructing, repairing, or making additions to classroom</u>	1182
<u>facilities.</u>	1183
<u>(2) "Ohio school facilities commission" and "classroom</u>	1184
<u>facilities" have the same meanings as in section 3318.01 of the</u>	1185
<u>Revised Code.</u>	1186
<u>(B) There is hereby established the college-preparatory</u>	1187
<u>boarding school facilities program. Under the program, the Ohio</u>	1188
<u>school facilities commission shall provide assistance to the</u>	1189
<u>boards of trustees of college-preparatory boarding schools</u>	1190
<u>established under Chapter 3328. of the Revised Code for the</u>	1191
<u>acquisition of classroom facilities.</u>	1192
<u>(C) To be eligible for assistance under this program, a board</u>	1193
<u>of trustees shall secure at least twenty million dollars of</u>	1194
<u>private money to satisfy its share of facilities acquisition. A</u>	1195
<u>board of trustees that receives assistance under the program shall</u>	1196
<u>fund the acquisition of residential facilities and any other</u>	1197
<u>facilities other than classroom facilities through private means.</u>	1198
<u>(D) The lease payments made by the boards of trustees of</u>	1199
<u>college-preparatory boarding schools receiving assistance under</u>	1200
<u>the program shall be deposited into the state treasury and</u>	1201
<u>credited to the common schools capital facilities bond service</u>	1202
<u>fund created in section 151.03 of the Revised Code.</u>	1203
<u>(E) The acquisition of classroom facilities with assistance</u>	1204
<u>provided under the program shall not be subject to sections</u>	1205
<u>3318.01 to 3318.20 of the Revised Code.</u>	1206
<u>(F) Within the ninety-day period immediately following the</u>	1207
<u>effective date of this section, the commission shall adopt rules</u>	1208
<u>necessary for the implementation and administration of the</u>	1209

program. 1210

**Sec. 3319.31.** (A) As used in this section and sections 1211  
3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" 1212  
means a certificate, license, or permit described in this chapter 1213  
or in division (B) of section 3301.071 or in section 3301.074 of 1214  
the Revised Code. 1215

(B) For any of the following reasons, the state board of 1216  
education, in accordance with Chapter 119. and section 3319.311 of 1217  
the Revised Code, may refuse to issue a license to an applicant; 1218  
may limit a license it issues to an applicant; may suspend, 1219  
revoke, or limit a license that has been issued to any person; or 1220  
may revoke a license that has been issued to any person and has 1221  
expired: 1222

(1) Engaging in an immoral act, incompetence, negligence, or 1223  
conduct that is unbecoming to the applicant's or person's 1224  
position; 1225

(2) A plea of guilty to, a finding of guilt by a jury or 1226  
court of, or a conviction of any of the following: 1227

(a) A felony other than a felony listed in division (C) of 1228  
this section; 1229

(b) An offense of violence other than an offense of violence 1230  
listed in division (C) of this section; 1231

(c) A theft offense, as defined in section 2913.01 of the 1232  
Revised Code, other than a theft offense listed in division (C) of 1233  
this section; 1234

(d) A drug abuse offense, as defined in section 2925.01 of 1235  
the Revised Code, that is not a minor misdemeanor, other than a 1236  
drug abuse offense listed in division (C) of this section; 1237

(e) A violation of an ordinance of a municipal corporation 1238  
that is substantively comparable to an offense listed in divisions 1239



(B)(2)(a) to (d) of this section. 1240

(3) A judicial finding of eligibility for intervention in 1241  
lieu of conviction under section 2951.041 of the Revised Code, or 1242  
agreeing to participate in a pre-trial diversion program under 1243  
section 2935.36 of the Revised Code, or a similar diversion 1244  
program under rules of a court, for any offense listed in division 1245  
(B)(2) or (C) of this section; 1246

(4) Failure to comply with section 3314.40, 3319.313, 1247  
3326.24, 3328.19, or 5126.253 of the Revised Code. 1248

(C) Upon learning of a plea of guilty to, a finding of guilt 1249  
by a jury or court of, or a conviction of any of the offenses 1250  
listed in this division by a person who holds a current or expired 1251  
license or is an applicant for a license or renewal of a license, 1252  
the state board or the superintendent of public instruction, if 1253  
the state board has delegated the duty pursuant to division (D) of 1254  
this section, shall by a written order revoke the person's license 1255  
or deny issuance or renewal of the license to the person. The 1256  
state board or the superintendent shall revoke a license that has 1257  
been issued to a person to whom this division applies and has 1258  
expired in the same manner as a license that has not expired. 1259

Revocation of a license or denial of issuance or renewal of a 1260  
license under this division is effective immediately at the time 1261  
and date that the board or superintendent issues the written order 1262  
and is not subject to appeal in accordance with Chapter 119. of 1263  
the Revised Code. Revocation of a license or denial of issuance or 1264  
renewal of license under this division remains in force during the 1265  
pendency of an appeal by the person of the plea of guilty, finding 1266  
of guilt, or conviction that is the basis of the action taken 1267  
under this division. 1268

The state board or superintendent shall take the action 1269  
required by this division for a violation of division (B)(1), (2), 1270

(3), or (4) of section 2919.22 of the Revised Code; a violation of 1271  
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 1272  
2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 1273  
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 1274  
2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 1275  
2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 1276  
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 1277  
2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 1278  
2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 1279  
2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 1280  
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 1281  
2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 1282  
of the Revised Code; a violation of section 2905.04 of the Revised 1283  
Code as it existed prior to July 1, 1996; a violation of section 1284  
2919.23 of the Revised Code that would have been a violation of 1285  
section 2905.04 of the Revised Code as it existed prior to July 1, 1286  
1996, had the violation been committed prior to that date; 1287  
felonious sexual penetration in violation of former section 1288  
2907.12 of the Revised Code; or a violation of an ordinance of a 1289  
municipal corporation that is substantively comparable to an 1290  
offense listed in this paragraph. 1291

(D) The state board may delegate to the superintendent of 1292  
public instruction the authority to revoke a person's license or 1293  
to deny issuance or renewal of a license to a person under 1294  
division (C) or (F) of this section. 1295

(E)(1) If the plea of guilty, finding of guilt, or conviction 1296  
that is the basis of the action taken under division (B)(2) or (C) 1297  
of this section, or under the version of division (F) of section 1298  
3319.311 of the Revised Code in effect prior to ~~the effective date~~ 1299  
~~of this amendment~~ September 12, 2008, is overturned on appeal, 1300  
upon exhaustion of the criminal appeal, the clerk of the court 1301  
that overturned the plea, finding, or conviction or, if 1302

applicable, the clerk of the court that accepted an appeal from 1303  
the court that overturned the plea, finding, or conviction, shall 1304  
notify the state board that the plea, finding, or conviction has 1305  
been overturned. Within thirty days after receiving the 1306  
notification, the state board shall initiate proceedings to 1307  
reconsider the revocation or denial of the person's license in 1308  
accordance with division (E)(2) of this section. In addition, the 1309  
person whose license was revoked or denied may file with the state 1310  
board a petition for reconsideration of the revocation or denial 1311  
along with appropriate court documents. 1312

(2) Upon receipt of a court notification or a petition and 1313  
supporting court documents under division (E)(1) of this section, 1314  
the state board, after offering the person an opportunity for an 1315  
adjudication hearing under Chapter 119. of the Revised Code, shall 1316  
determine whether the person committed the act in question in the 1317  
prior criminal action against the person that is the basis of the 1318  
revocation or denial and may continue the revocation or denial, 1319  
may reinstate the person's license, with or without limits, or may 1320  
grant the person a new license, with or without limits. The 1321  
decision of the board shall be based on grounds for revoking, 1322  
denying, suspending, or limiting a license adopted by rule under 1323  
division (G) of this section and in accordance with the 1324  
evidentiary standards the board employs for all other licensure 1325  
hearings. The decision of the board under this division is subject 1326  
to appeal under Chapter 119. of the Revised Code. 1327

(3) A person whose license is revoked or denied under 1328  
division (C) of this section shall not apply for any license if 1329  
the plea of guilty, finding of guilt, or conviction that is the 1330  
basis of the revocation or denial, upon completion of the criminal 1331  
appeal, either is upheld or is overturned but the state board 1332  
continues the revocation or denial under division (E)(2) of this 1333  
section and that continuation is upheld on final appeal. 1334

(F) The state board may take action under division (B) of 1335  
this section, and the state board or the superintendent shall take 1336  
the action required under division (C) of this section, on the 1337  
basis of substantially comparable conduct occurring in a 1338  
jurisdiction outside this state or occurring before a person 1339  
applies for or receives any license. 1340

(G) The state board may adopt rules in accordance with 1341  
Chapter 119. of the Revised Code to carry out this section and 1342  
section 3319.311 of the Revised Code. 1343

**Sec. 3319.311.** (A)(1) The state board of education, or the 1344  
superintendent of public instruction on behalf of the board, may 1345  
investigate any information received about a person that 1346  
reasonably appears to be a basis for action under section 3319.31 1347  
of the Revised Code, including information received pursuant to 1348  
section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, 1349  
or 5153.176 of the Revised Code. Except as provided in division 1350  
(A)(2) of this section, the board shall contract with the office 1351  
of the Ohio attorney general to conduct any investigation of that 1352  
nature. The board shall pay for the costs of the contract only 1353  
from moneys in the state board of education licensure fund 1354  
established under section 3319.51 of the Revised Code. Except as 1355  
provided in division (A)(2) of this section, all information 1356  
received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 1357  
3328.19, 5126.253, or 5153.176 of the Revised Code, and all 1358  
information obtained during an investigation is confidential and 1359  
is not a public record under section 149.43 of the Revised Code. 1360  
If an investigation is conducted under this division regarding 1361  
information received about a person and no action is taken against 1362  
the person under this section or section 3319.31 of the Revised 1363  
Code within two years of the completion of the investigation, all 1364  
records of the investigation shall be expunged. 1365

(2) In the case of a person about whom the board has learned 1366  
of a plea of guilty to, finding of guilt by a jury or court of, or 1367  
a conviction of an offense listed in division (C) of section 1368  
3319.31 of the Revised Code, or substantially comparable conduct 1369  
occurring in a jurisdiction outside this state, the board or the 1370  
superintendent of public instruction need not conduct any further 1371  
investigation and shall take the action required by division (C) 1372  
or (F) of that section. Except as provided in division (G) of this 1373  
section, all information obtained by the board or the 1374  
superintendent of public instruction pertaining to the action is a 1375  
public record under section 149.43 of the Revised Code. 1376

(B) The superintendent of public instruction shall review the 1377  
results of each investigation of a person conducted under division 1378  
(A)(1) of this section and shall determine, on behalf of the state 1379  
board, whether the results warrant initiating action under 1380  
division (B) of section 3319.31 of the Revised Code. The 1381  
superintendent shall advise the board of such determination at a 1382  
meeting of the board. Within fourteen days of the next meeting of 1383  
the board, any member of the board may ask that the question of 1384  
initiating action under section 3319.31 of the Revised Code be 1385  
placed on the board's agenda for that next meeting. Prior to 1386  
initiating that action against any person, the person's name and 1387  
any other personally identifiable information shall remain 1388  
confidential. 1389

(C) The board shall take no action against a person under 1390  
division (B) of section 3319.31 of the Revised Code without 1391  
providing the person with written notice of the charges and with 1392  
an opportunity for a hearing in accordance with Chapter 119. of 1393  
the Revised Code. 1394

(D) For purposes of an investigation under division (A)(1) of 1395  
this section or a hearing under division (C) of this section or 1396  
under division (E)(2) of section 3319.31 of the Revised Code, the 1397

board, or the superintendent on behalf of the board, may 1398  
administer oaths, order the taking of depositions, issue 1399  
subpoenas, and compel the attendance of witnesses and the 1400  
production of books, accounts, papers, records, documents, and 1401  
testimony. The issuance of subpoenas under this division may be by 1402  
certified mail or personal delivery to the person. 1403

(E) The superintendent, on behalf of the board, may enter 1404  
into a consent agreement with a person against whom action is 1405  
being taken under division (B) of section 3319.31 of the Revised 1406  
Code. The board may adopt rules governing the superintendent's 1407  
action under this division. 1408

(F) No surrender of a license shall be effective until the 1409  
board takes action to accept the surrender unless the surrender is 1410  
pursuant to a consent agreement entered into under division (E) of 1411  
this section. 1412

(G) The name of any person who is not required to report 1413  
information under section 3314.40, 3319.313, 3326.24, 3328.19, 1414  
5126.253, or 5153.176 of the Revised Code, but who in good faith 1415  
provides information to the state board or superintendent of 1416  
public instruction about alleged misconduct committed by a person 1417  
who holds a license or has applied for issuance or renewal of a 1418  
license, shall be confidential and shall not be released. Any such 1419  
person shall be immune from any civil liability that otherwise 1420  
might be incurred or imposed for injury, death, or loss to person 1421  
or property as a result of the provision of that information. 1422

(H)(1) No person shall knowingly make a false report to the 1423  
superintendent of public instruction or the state board of 1424  
education alleging misconduct by an employee of a public or 1425  
chartered nonpublic school or an employee of the operator of a 1426  
community school established under Chapter 3314. or a 1427  
college-preparatory boarding school established under Chapter 1428  
3328. of the Revised Code. 1429

(2)(a) In any civil action brought against a person in which 1430  
it is alleged and proved that the person violated division (H)(1) 1431  
of this section, the court shall award the prevailing party 1432  
reasonable attorney's fees and costs that the prevailing party 1433  
incurred in the civil action or as a result of the false report 1434  
that was the basis of the violation. 1435

(b) If a person is convicted of or pleads guilty to a 1436  
violation of division (H)(1) of this section, if the subject of 1437  
the false report that was the basis of the violation was charged 1438  
with any violation of a law or ordinance as a result of the false 1439  
report, and if the subject of the false report is found not to be 1440  
guilty of the charges brought against the subject as a result of 1441  
the false report or those charges are dismissed, the court that 1442  
sentences the person for the violation of division (H)(1) of this 1443  
section, as part of the sentence, shall order the person to pay 1444  
restitution to the subject of the false report, in an amount equal 1445  
to reasonable attorney's fees and costs that the subject of the 1446  
false report incurred as a result of or in relation to the 1447  
charges. 1448

**Sec. 3328.01. As used in this chapter:** 1449

(A) "Child with a disability," "IEP," and "school district of 1450  
residence" have the same meanings as in section 3323.01 of the 1451  
Revised Code. 1452

(B) "Eligible student" means a student who is entitled to 1453  
attend school in a participating school district; is at risk of 1454  
academic failure; is from a family whose income is below two 1455  
hundred per cent of the federal poverty guidelines, as defined in 1456  
section 5101.46 of the Revised Code; meets any additional criteria 1457  
prescribed by agreement between the state board of education and 1458  
the operator of the college-preparatory boarding school in which 1459  
the student seeks enrollment; and meets at least two of the 1460

<u>following additional conditions:</u>	1461
<u>(1) The student has a record of in-school disciplinary actions, suspensions, expulsions, or truancy.</u>	1462 1463
<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>	1464 1465 1466 1467 1468 1469 1470 1471 1472 1473
<u>(3) The student is a child with a disability.</u>	1474
<u>(4) The student has been referred for academic intervention services.</u>	1475 1476
<u>(5) The student's head of household is a single parent. As used in this division and in division (B)(6) of this section, "head of household" means a person who occupies the same household as the student and who is financially responsible for the student.</u>	1477 1478 1479 1480
<u>(6) The student's head of household is not the student's custodial parent.</u>	1481 1482
<u>(7) A member of the student's family has been imprisoned, as defined in section 1.05 of the Revised Code.</u>	1483 1484
<u>(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.</u>	1485 1486 1487
<u>(D) "Formula ADM" and "category one through six special education ADM" have the same meanings as in section 3306.02 of the Revised Code.</u>	1488 1489 1490



(E) "Operator" means the operator of a college-preparatory boarding school selected under section 3328.11 of the Revised Code. 1491  
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(F) "Participating school district" means either of the following: 1494  
1495

(1) The school district in which a college-preparatory boarding school established under this chapter is located; 1496  
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(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. 1498  
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(G) "State education aid" has the same meaning as in section 3317.02 of the Revised Code. 1505  
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**Sec. 3328.02.** Each college-preparatory boarding school 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 Code. 1507  
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**Sec. 3328.03.** In accordance with Section 22 of Article II, Ohio Constitution, no agreement or contract entered into under this chapter shall create an obligation of state funds for a period longer than two years; however, the general assembly, every two years, may authorize renewal of any such obligation. 1512  
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**Sec. 3328.04.** The city, exempted village, or local school district in which a college-preparatory boarding school established under this chapter is located is a participating 1517  
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school district under this chapter. Any other city, exempted 1520  
village, or local school district may agree to be a participating 1521  
school district. The state board of education shall adopt 1522  
procedures for districts to agree to be participating school 1523  
districts. 1524

**Sec. 3328.11.** (A) In accordance with the procedures 1525  
prescribed in division (B) of this section, the state board of 1526  
education shall select a private nonprofit corporation that meets 1527  
the following qualifications to operate each college-preparatory 1528  
boarding school established under this chapter: 1529

(1) The corporation has experience operating a school or 1530  
program similar to the schools authorized under this chapter. 1531

(2) The school or program described in division (A)(1) of 1532  
this section has demonstrated to the satisfaction of the state 1533  
board success in improving the academic performance of students. 1534

(3) The corporation has demonstrated to the satisfaction of 1535  
the state board that the corporation has the capacity to secure 1536  
private funds for the development of the school authorized under 1537  
this chapter. 1538

(B)(1) Not later than sixty days after the effective date of 1539  
this section, the state board shall issue a request for proposals 1540  
from private nonprofit corporations qualified to operate a 1541  
college-preparatory boarding school established under this 1542  
chapter. If the state board subsequently determines that the 1543  
establishment of one or more additional college-preparatory 1544  
boarding schools is advisable, the state board shall issue 1545  
requests for proposals from private nonprofit corporations 1546  
qualified to operate those additional schools. 1547

In all cases, the state board shall select the school's 1548  
operator from among the qualified responders within one hundred 1549

eighty days after the issuance of the request for proposals. If no 1550  
qualified responder submits a proposal, the state board may issue 1551  
another request for proposals. 1552

(2) Each proposal submitted to the state board shall contain 1553  
the following information: 1554

(a) The proposed location of the college-preparatory boarding 1555  
school, which may differ from any location recommended by the 1556  
state board in the request for proposals; 1557

(b) A plan for offering grade five or six in the school's 1558  
initial year of operation and a plan for increasing the grade 1559  
levels offered by the school in subsequent years; 1560

(c) Any other information about the proposed educational 1561  
program, facilities, or operations of the school considered 1562  
necessary by the state board. 1563

**Sec. 3328.12.** The state board of education shall enter into a 1564  
contract with the operator of each college-preparatory boarding 1565  
school established under this chapter. The contract shall 1566  
stipulate the following: 1567

(A) The school may operate only if and to the extent the 1568  
school holds a valid charter granted by the state board under 1569  
section 3301.16 of the Revised Code. 1570

(B) The operator shall oversee the acquisition of a facility 1571  
for the school. 1572

(C) The operator shall operate the school in accordance with 1573  
the terms of the proposal accepted by the state board under 1574  
section 3328.11 of the Revised Code, including the plan for 1575  
increasing the grade levels offered by the school. 1576

(D) The school shall comply with the provisions of this 1577  
chapter. 1578

(E) The school shall comply with any other provisions of law specified in the contract, the charter granted by the state board, and the rules adopted by the state board under section 3328.50 of the Revised Code. 1579  
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(F) The school shall comply with the bylaws adopted by the operator under section 3328.13 of the Revised Code. 1583  
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(G) The school shall meet the academic goals and other performance standards specified in the contract. 1585  
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(H) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination. 1587  
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(I) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract. 1594  
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**Sec. 3328.13.** Each operator of a college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter, the rules adopted under section 3328.50 of the Revised Code, the contract between the operator and the state board of education, and the charter granted to the school by the state board. The bylaws shall include procedures for the appointment of members of the school's board of trustees, whose terms of office shall be as prescribed in section 3328.15 of the Revised Code. The bylaws also shall include standards for the admission of students to the school and their dismissal from the school. The bylaws shall be subject to the approval of the state board. 1597  
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Sec. 3328.14. Each operator of a college-preparatory boarding school established under this chapter shall adopt a program of outreach to inform every city, local, and exempted village school district about the school and the procedures for admission to the school and for becoming a participating school district.

Sec. 3328.15. (A) Each college-preparatory boarding school established under this chapter shall be governed by a board of trustees consisting of up to twenty-five members. Five of those members shall be appointed by the governor, with the advice and consent of the senate. The governor's appointments may be based on nonbinding recommendations made by the superintendent of public instruction. The remaining members shall be appointed pursuant to the bylaws adopted under section 3328.13 of the Revised Code.

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

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

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

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

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

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

(6) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for

an initial term of one year. 1639

(7) Any remaining members appointed pursuant to the bylaws shall serve for an initial term of one year. 1640  
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Thereafter the terms of office of all members shall be for three years. 1642  
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The beginning date and ending date of terms of office shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code. 1644  
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(C) Vacancies on the board shall be filled in the same manner as the initial appointments. A member appointed to an unexpired term shall serve for the remainder of that term and may be reappointed subject to division (D) of this section. 1647  
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(D) No member may serve for more than three consecutive three-year terms. 1651  
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(E) The officers of the board shall be selected by and from among the members of the board. 1653  
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(F) Compensation for the members of the board, if any, shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code. 1655  
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**Sec. 3328.17.** Employees of a college-preparatory boarding school established under this chapter may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this section may be considered an appropriate unit. 1658  
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**Sec. 3328.18.** (A) As used in this section, "license" has the same meaning as in section 3319.31 of the Revised Code. 1664  
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(B) If a person who is employed by a college-preparatory boarding school established under this chapter or its operator is 1666  
1667

arrested, summoned, or indicted for an alleged violation of an 1668  
offense listed in division (C) of section 3319.31 of the Revised 1669  
Code, if the person holds a license, or an offense listed in 1670  
division (B)(1) of section 3319.39 of the Revised Code, if the 1671  
person does not hold a license, the chief administrator of the 1672  
school in which that person works shall suspend that person from 1673  
all duties that require the care, custody, or control of a child 1674  
during the pendency of the criminal action against the person. If 1675  
the person who is arrested, summoned, or indicted for an alleged 1676  
violation of an offense listed in division (C) of section 3319.31 1677  
or division (B)(1) of section 3319.39 of the Revised Code is the 1678  
chief administrator of the school, the board of trustees of the 1679  
school shall suspend the chief administrator from all duties that 1680  
require the care, custody, or control of a child. 1681

(C) When a person who holds a license is suspended in 1682  
accordance with this section, the chief administrator or board 1683  
that imposed the suspension promptly shall report the person's 1684  
suspension to the department of education. The report shall 1685  
include the offense for which the person was arrested, summoned, 1686  
or indicted. 1687

**Sec. 3328.19.** (A) As used in this section: 1688

(1) "Conduct unbecoming to the teaching profession" shall be 1689  
as described in rules adopted by the state board of education. 1690

(2) "Intervention in lieu of conviction" means intervention 1691  
in lieu of conviction under section 2951.041 of the Revised Code. 1692

(3) "License" has the same meaning as in section 3319.31 of 1693  
the Revised Code. 1694

(4) "Pre-trial diversion program" means a pre-trial diversion 1695  
program under section 2935.36 of the Revised Code or a similar 1696  
diversion program under rules of a court. 1697

(B) The chief administrator of each college-preparatory 1698  
boarding school established under this chapter, or the president 1699  
or chairperson of the board of trustees of the school if division 1700  
(C) of this section applies, shall promptly submit to the 1701  
superintendent of public instruction the information prescribed in 1702  
division (D) of this section when any of the following conditions 1703  
applies to a person employed to work in the school who holds a 1704  
license issued by the state board of education: 1705

(1) The chief administrator, or president or chairperson, 1706  
knows that the employee has pleaded guilty to, has been found 1707  
guilty by a jury or court of, has been convicted of, has been 1708  
found to be eligible for intervention in lieu of conviction for, 1709  
or has agreed to participate in a pre-trial diversion program for 1710  
an offense described in division (B)(2) or (C) of section 3319.31 1711  
or division (B)(1) of section 3319.39 of the Revised Code. 1712

(2) The board of trustees of the school, or the operator, has 1713  
initiated termination or nonrenewal proceedings against, has 1714  
terminated, or has not renewed the contract of the employee 1715  
because the board or operator has reasonably determined that the 1716  
employee has committed an act that is unbecoming to the teaching 1717  
profession or an offense described in division (B)(2) or (C) of 1718  
section 3319.31 or division (B)(1) of section 3319.39 of the 1719  
Revised Code. 1720

(3) The employee has resigned under threat of termination or 1721  
nonrenewal as described in division (B)(2) of this section. 1722

(4) The employee has resigned because of or in the course of 1723  
an investigation by the board or operator regarding whether the 1724  
employee has committed an act that is unbecoming to the teaching 1725  
profession or an offense described in division (B)(2) or (C) of 1726  
section 3319.31 or division (B)(1) of section 3319.39 of the 1727  
Revised Code. 1728



(C) If the employee to whom any of the conditions prescribed in divisions (B)(1) to (4) of this section applies is the chief administrator of the school, the president or chairperson of the board of trustees of the school shall make the report required under this section. 1729  
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(D) If a report is required under this section, the chief administrator, or president or chairperson, shall submit to the superintendent of public instruction the name and social security number of the employee about whom the information is required and a factual statement regarding any of the conditions prescribed in divisions (B)(1) to (4) of this section that apply to the employee. 1734  
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(E) A determination made by the board or operator as described in division (B)(2) of this section or a termination, nonrenewal, resignation, or other separation described in divisions (B)(2) to (4) of this section does not create a presumption of the commission or lack of the commission by the employee of an act unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code. 1741  
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(F) No individual required to submit a report under division (B) of this section shall knowingly fail to comply with that division. 1749  
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(G) An individual who provides information to the superintendent of public instruction in accordance with this section in good faith shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the provision of that information. 1752  
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Sec. 3328.191. The board of trustees of each 1758  
college-preparatory boarding school established under this chapter 1759

shall require that the reports of any investigation by the board 1760  
or by the school's operator of an employee who works in the 1761  
school, regarding whether the employee has committed an act or 1762  
offense for which the chief administrator of the school or the 1763  
president or chairperson of the board is required to make a report 1764  
to the superintendent of public instruction under section 3328.19 1765  
of the Revised Code, be kept in the employee's personnel file. If, 1766  
after an investigation under division (A) of section 3319.311 of 1767  
the Revised Code, the superintendent of public instruction 1768  
determines that the results of that investigation do not warrant 1769  
initiating action under section 3319.31 of the Revised Code, the 1770  
board shall require the reports of the investigation to be moved 1771  
from the employee's personnel file to a separate public file. 1772

**Sec. 3328.192.** Notwithstanding any provision to the contrary 1773  
in Chapter 4117. of the Revised Code, the provisions of sections 1774  
3328.19 and 3328.191 of the Revised Code prevail over any 1775  
conflicting provisions of a collective bargaining agreement or 1776  
contract for employment entered into on or after the effective 1777  
date of this section. 1778

**Sec. 3328.193.** (A) As used in this section, "license" has the 1779  
same meaning as in section 3319.31 of the Revised Code. 1780

(B) No employee of a college-preparatory boarding school 1781  
established under this chapter or its operator shall do either of 1782  
the following: 1783

(1) Knowingly make a false report to the chief administrator 1784  
of the school, or the chief administrator's designee, alleging 1785  
misconduct by another employee of the school or its operator; 1786

(2) Knowingly cause the chief administrator, or the chief 1787  
administrator's designee, to make a false report of the alleged 1788  
misconduct to the superintendent of public instruction or the 1789

state board of education. 1790

(C) Any employee of a college-preparatory boarding school 1791  
established under this chapter or its operator who in good faith 1792  
reports to the chief administrator of the school, or the chief 1793  
administrator's designee, information about alleged misconduct 1794  
committed by another employee of the school or operator shall be 1795  
immune from any civil liability that otherwise might be incurred 1796  
or imposed for injury, death, or loss to person or property as a 1797  
result of the reporting of that information. 1798

If the alleged misconduct involves a person who holds a 1799  
license but the chief administrator is not required to submit a 1800  
report to the superintendent of public instruction under section 1801  
3328.19 of the Revised Code and the chief administrator, or the 1802  
chief administrator's designee, in good faith reports the alleged 1803  
misconduct to the superintendent of public instruction or the 1804  
state board, the chief administrator, or the chief administrator's 1805  
designee, shall be immune from any civil liability that otherwise 1806  
might be incurred or imposed for injury, death, or loss to person 1807  
or property as a result of the reporting of that information. 1808

(D)(1) In any civil action brought against a person in which 1809  
it is alleged and proved that the person violated division (B) of 1810  
this section, the court shall award the prevailing party 1811  
reasonable attorney's fees and costs that the prevailing party 1812  
incurred in the civil action or as a result of the false report 1813  
that was the basis of the violation. 1814

(2) If a person is convicted of or pleads guilty to a 1815  
violation of division (B) of this section, if the subject of the 1816  
false report that was the basis of the violation was charged with 1817  
any violation of a law or ordinance as a result of the false 1818  
report, and if the subject of the false report is found not to be 1819  
guilty of the charges brought against the subject as a result of 1820  
the false report or those charges are dismissed, the court that 1821

sentences the person for the violation of division (B) of this 1822  
section, as part of the sentence, shall order the person to pay 1823  
restitution to the subject of the false report, in an amount equal 1824  
to reasonable attorney's fees and costs that the subject of the 1825  
false report incurred as a result of or in relation to the 1826  
charges. 1827

**Sec. 3328.20.** (A) As used in this section: 1828

(1) "Designated official" means the chief administrator of a 1829  
college-preparatory boarding school established under this 1830  
chapter, or the chief administrator's designee. 1831

(2) "Essential school services" means services provided by a 1832  
private company under contract with a college-preparatory boarding 1833  
school established under this chapter that the chief administrator 1834  
of the school has determined are necessary for the operation of 1835  
the school and that would need to be provided by persons employed 1836  
by the school or its operator if the services were not provided by 1837  
the private company. 1838

(3) "License" has the same meaning as in section 3319.31 of 1839  
the Revised Code. 1840

(B) This section applies to any person who is an employee of 1841  
a private company under contract with a college-preparatory 1842  
boarding school established under this chapter to provide 1843  
essential school services and who will work in the school in a 1844  
position that does not require a license issued by the state board 1845  
of education, is not for the operation of a vehicle for pupil 1846  
transportation, and that involves routine interaction with a child 1847  
or regular responsibility for the care, custody, or control of a 1848  
child. 1849

(C) No college-preparatory boarding school established under 1850  
this chapter shall permit a person to whom this section applies to 1851

work in the school, unless one of the following applies to the 1852  
person: 1853

(1) The person's employer presents proof of both of the 1854  
following to the designated official: 1855

(a) That the person has been the subject of a criminal 1856  
records check conducted in accordance with division (D) of this 1857  
section within the five-year period immediately prior to the date 1858  
on which the person will begin working in the school; 1859

(b) That the criminal records check indicates that the person 1860  
has not been convicted of or pleaded guilty to any offense 1861  
described in division (B)(1) of section 3319.39 of the Revised 1862  
Code. 1863

(2) During any period of time in which the person will have 1864  
routine interaction with a child or regular responsibility for the 1865  
care, custody, or control of a child, the designated official has 1866  
arranged for an employee of the school to be present in the same 1867  
room with the child or, if outdoors, to be within a thirty-yard 1868  
radius of the child or to have visual contact with the child. 1869

(D) Any private company that has been hired or seeks to be 1870  
hired by a college-preparatory boarding school established under 1871  
this chapter to provide essential school services may request the 1872  
bureau of criminal identification and investigation to conduct a 1873  
criminal records check of any of its employees for the purpose of 1874  
complying with division (C)(1) of this section. Each request for a 1875  
criminal records check under this division shall be made to the 1876  
superintendent of the bureau in the manner prescribed in section 1877  
3319.39 of the Revised Code. Upon receipt of a request, the bureau 1878  
shall conduct the criminal records check in accordance with 1879  
section 109.572 of the Revised Code as if the request had been 1880  
made under section 3319.39 of the Revised Code. 1881

Notwithstanding division (H) of section 109.57 of the Revised 1882

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. 1883  
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**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 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. 1888  
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(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. 1898  
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**Sec. 3328.22.** The educational program of a college-preparatory boarding school established under this chapter shall include at least all of the following: 1905  
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(A) A remedial curriculum for students in grades lower than grade nine; 1908  
1909

(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; 1910  
1911  
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(C) Extracurricular activities, including athletic and cultural activities; 1913  
1914

(D) College admission counseling; 1915

(E) Health and mental health services; 1916

(F) Tutoring services; 1917

(G) Community services opportunities; 1918

(H) A residential student life program. 1919

**Sec. 3328.23.** (A) A college-preparatory boarding school established under this chapter and the school's operator shall comply with Chapter 3323. of the Revised Code as if the school were a school district. For each child with a disability enrolled in the school for whom an IEP has been developed, the school and its operator shall verify in the manner prescribed by the department of education that the school is providing the services required under the child's IEP. 1920  
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(B) The school district in which a child with a disability enrolled in the college-preparatory boarding school is entitled to attend school and the child's school district of residence, if different, are not obligated to provide the student with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child is enrolled in the college-preparatory boarding school. 1928  
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**Sec. 3328.24.** A college-preparatory boarding school established under this chapter, its operator, and its board of trustees shall comply with sections 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as if the school and the operator were a school district and the school's board of trustees were a district board of education. 1935  
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Sec. 3328.25. (A) The board of trustees of a 1941  
college-preparatory boarding school established under this chapter 1942  
shall grant a diploma to any student enrolled in the school to 1943  
whom all of the following apply: 1944

(1) The student has successfully completed the school's high 1945  
school curriculum or the IEP developed for the student by the 1946  
school pursuant to section 3323.08 of the Revised Code or has 1947  
qualified under division (D) or (F) of section 3313.603 of the 1948  
Revised Code, provided that the school shall not require a student 1949  
to remain in school for any specific number of semesters or other 1950  
terms if the student completes the required curriculum early. 1951

(2) Subject to section 3313.614 of the Revised Code, the 1952  
student has met the assessment requirements of division (A)(2)(a) 1953  
or (b) of this section, as applicable. 1954

(a) If the student entered ninth grade prior to the date 1955  
prescribed by rule of the state board of education under division 1956  
(E)(2) of section 3301.0712 of the Revised Code, the student 1957  
either: 1958

(i) Has attained at least the applicable scores designated 1959  
under division (B)(1) of section 3301.0710 of the Revised Code on 1960  
all the assessments prescribed by that division unless division 1961  
(L) of section 3313.61 of the Revised Code applies to the student; 1962

(ii) Has satisfied the alternative conditions prescribed in 1963  
section 3313.615 of the Revised Code. 1964

(b) If the person entered ninth grade on or after the date 1965  
prescribed by rule of the state board under division (E)(2) of 1966  
section 3301.0712 of the Revised Code, the student has attained on 1967  
the entire assessment system prescribed under division (B)(2) of 1968  
section 3301.0710 of the Revised Code at least the required 1969  
passing composite score, designated under division (C)(1) of 1970



section 3301.0712 of the Revised Code, except to the extent that 1971  
the student is excused from some portion of that assessment system 1972  
pursuant to division (L) of section 3313.61 of the Revised Code. 1973

(3) The student is not eligible to receive an honors diploma 1974  
granted under division (B) of this section. 1975

No diploma shall be granted under this division to anyone 1976  
except as provided in this division. 1977

(B) In lieu of a diploma granted under division (A) of this 1978  
section, the board of trustees shall grant an honors diploma, in 1979  
the same manner that boards of education of school districts grant 1980  
honors diplomas under division (B) of section 3313.61 of the 1981  
Revised Code, to any student enrolled in the school who 1982  
accomplishes all of the following: 1983

(1) Successfully completes the school's high school 1984  
curriculum or the IEP developed for the student by the school 1985  
pursuant to section 3323.08 of the Revised Code; 1986

(2) Subject to section 3313.614 of the Revised Code, has met 1987  
the assessment requirements of division (B)(2)(a) or (b) of this 1988  
section, as applicable. 1989

(a) If the student entered ninth grade prior to the date 1990  
prescribed by rule of the state board under division (E)(2) of 1991  
section 3301.0712 of the Revised Code, the student either: 1992

(i) Has attained at least the applicable scores designated 1993  
under division (B)(1) of section 3301.0710 of the Revised Code on 1994  
all the assessments prescribed under that division; 1995

(ii) Has satisfied the alternative conditions prescribed in 1996  
section 3313.615 of the Revised Code. 1997

(b) If the person entered ninth grade on or after the date 1998  
prescribed by rule of the state board under division (E)(2) of 1999  
section 3301.0712 of the Revised Code, the student has attained on 2000

the entire assessment system prescribed under division (B)(2) of 2001  
section 3301.0710 of the Revised Code at least the required 2002  
passing composite score, designated under division (C)(1) of 2003  
section 3301.0712 of the Revised Code. 2004

(3) Has met the additional criteria for granting an honors 2005  
diploma prescribed by the state board under division (B) of 2006  
section 3313.61 of the Revised Code for the granting of honors 2007  
diplomas by school districts. 2008

An honors diploma shall not be granted to a student who is 2009  
subject to the Ohio core curriculum prescribed in division (C) of 2010  
section 3313.603 of the Revised Code but elects the option of 2011  
division (D) or (F) of that section. No honors diploma shall be 2012  
granted to anyone failing to comply with this division, and not 2013  
more than one honors diploma shall be granted to any student under 2014  
this division. 2015

(C) A diploma or honors diploma awarded under this section 2016  
shall be signed by the presiding officer of the board of trustees. 2017  
Each diploma shall bear the date of its issue and be in such form 2018  
as the board of trustees prescribes. 2019

(D) Upon granting a diploma to a student under this section, 2020  
the presiding officer of the board of trustees shall provide 2021  
notice of receipt of the diploma to the board of education of the 2022  
city, exempted village, or local school district where the student 2023  
is entitled to attend school when not residing at the 2024  
college-preparatory boarding school. The notice shall indicate the 2025  
type of diploma granted. 2026

**Sec. 3328.26.** (A) The department of education shall issue an 2027  
annual report card for each college-preparatory boarding school 2028  
established under this chapter that includes all information 2029  
applicable to school buildings under section 3302.03 of the 2030  
Revised Code. 2031

(B) For each student enrolled in the school, the department shall combine data regarding the academic performance of that student with comparable data from the school district in which the student is entitled to attend school for the purpose of calculating the performance of the district as a whole on the report card issued for the district under section 3302.03 of the Revised Code. 2032  
2033  
2034  
2035  
2036  
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(C) Each college-preparatory boarding school and its operator shall comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the school. 2039  
2040  
2041  
2042

**Sec. 3328.31.** Each college-preparatory boarding school established under this chapter shall report to the department of education, in the form and manner prescribed by the department, the following information: 2043  
2044  
2045  
2046

(A) The total number of students enrolled in the school; 2047

(B) The number of students enrolled in the school who are receiving special education and related services pursuant to an IEP; 2048  
2049  
2050

(C) The city, exempted village, or local school district in which each student reported under division (A) of this section is entitled to attend school; 2051  
2052  
2053

(D) Any additional information the department determines necessary to make payments to the school under this chapter. 2054  
2055

**Sec. 3328.32.** The city, exempted village, or local school district in which each child enrolled in a college-preparatory boarding school established under this chapter is entitled to attend school shall count that child in the district's average daily membership and in the district's category one through six special education ADM, as appropriate, as reported under divisions 2056  
2057  
2058  
2059  
2060  
2061

(A) and (B)(5) to (10) of section 3317.03 of the Revised Code. 2062

The department of education shall count that child in the 2063  
district's formula ADM. 2064

**Sec. 3328.33.** For each child enrolled in a 2065  
college-preparatory boarding school, as reported under section 2066  
3328.31 of the Revised Code, the department of education shall 2067  
deduct from the state education aid and, if necessary, from the 2068  
payment under sections 321.24 and 323.156 of the Revised Code, for 2069  
the city, exempted village, or local school district in which the 2070  
child is entitled to attend school an amount equal to eighty-five 2071  
per cent of the operating expenditure per pupil of that district. 2072

As used in this section, a district's "operating expenditure 2073  
per pupil" is the total amount of state payments and other 2074  
nonfederal revenue spent by the district for operating expenses 2075  
during the previous fiscal year, divided by the district's formula 2076  
ADM for the previous fiscal year. 2077

**Sec. 3328.34.** (A) For each child enrolled in a 2078  
college-preparatory boarding school, as reported under section 2079  
3328.31 of the Revised Code, the department of education shall pay 2080  
to the school the sum of the amount deducted from a participating 2081  
school district's account for that child under section 3328.33 of 2082  
the Revised Code plus the per-pupil boarding amount specified in 2083  
division (B) of this section. 2084

(B) For the first fiscal year in which a college-preparatory 2085  
boarding school may be established under this chapter, the 2086  
"per-pupil boarding amount" is twenty-five thousand dollars. For 2087  
each fiscal year thereafter, that amount shall be adjusted by the 2088  
rate of inflation, as measured by the consumer price index (all 2089  
urban consumers, all items) prepared by the bureau of labor 2090  
statistics of the United States department of labor, for the 2091

previous twelve-month period. 2092

(C) The state board of education may accept funds from 2093  
federal and state noneducation support services programs for the 2094  
purpose of funding the per pupil boarding amount prescribed in 2095  
division (B) of this section. Notwithstanding any other provision 2096  
of the Revised Code, the state board shall coordinate and 2097  
streamline any noneducation program requirements in order to 2098  
eliminate redundant or conflicting requirements, licensing 2099  
provisions, and oversight by government programs or agencies. The 2100  
applicable regulatory entities shall, to the maximum extent 2101  
possible, use independent reports and financial audits provided by 2102  
the operator and coordinated by the department of education to 2103  
eliminate or reduce contract and administrative reviews. 2104  
Regulatory entities other than the state board may suggest 2105  
reasonable additional items to be included in such independent 2106  
reports and financial audits to meet any requirements of federal 2107  
law. Reporting paperwork prepared for the state board shall be 2108  
shared with and accepted by other state and local entities to the 2109  
maximum extent feasible. 2110

(D)(1) Notwithstanding division (A) of this section, if, in 2111  
any fiscal year, the operator of a college-preparatory boarding 2112  
school receives federal funds for the purpose of supporting the 2113  
school's operations, the amount of those federal funds shall be 2114  
deducted from the total per-pupil boarding amount for all enrolled 2115  
students paid by the department to the school for that fiscal 2116  
year, unless the operator and the department determine otherwise 2117  
in a written agreement. Any portion of the total per-pupil 2118  
boarding amount for all enrolled students remaining after the 2119  
deduction of the federal funds shall be paid by the department to 2120  
the school from state funds appropriated to the department. 2121

(2) Notwithstanding division (A) of this section, if, in any 2122  
fiscal year, the department receives federal funds for the purpose 2123

of supporting the operations of a college-preparatory boarding school, the department shall use those federal funds first to pay the school the total per-pupil boarding amount for all enrolled students for that fiscal year. Any portion of the total per-pupil boarding amount for all enrolled students remaining after the use of the federal funds shall be paid by the department to the school from state funds appropriated to the department.

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

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

**Sec. 3328.36.** A college-preparatory boarding school established under this chapter shall be considered a school district and its board of trustees, on behalf of the school's operator, shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district or public school may receive under federal or state law or any appropriations act of the general assembly. The college-preparatory boarding school and its operator may apply to

any private entity to receive and accept funds. 2155

Sec. 3328.41. Each participating school district shall be 2156  
responsible for providing transportation on a weekly basis for 2157  
each student enrolled in a college-preparatory boarding school 2158  
established under this chapter who is entitled to attend school in 2159  
the district to and from that college-preparatory boarding school. 2160

Sec. 3328.45. (A) If the state board of education determines 2161  
that a college-preparatory boarding school established under this 2162  
chapter is not in compliance with any provision of this chapter or 2163  
the terms of the contract entered into under section 3328.12 of 2164  
the Revised Code, or that the school has failed to meet the 2165  
academic goals or performance standards specified in that 2166  
contract, the state board may initiate the termination procedures 2167  
specified in the contract. No termination shall take effect prior 2168  
to the end of a school year. Upon the effective date of a 2169  
termination, the school shall close. 2170

(B) If a college-preparatory boarding school is required to 2171  
close under division (A) of this section or closes for any other 2172  
reason, the school's board of trustees shall execute the closing 2173  
as provided in the contract under section 3328.12 of the Revised 2174  
Code. 2175

Sec. 3328.50. The state board of education shall adopt rules 2176  
in accordance with Chapter 119. of the Revised Code prescribing 2177  
procedures necessary for the implementation of this chapter. 2178

Sec. 3328.99. (A) Whoever violates division (F) of section 2179  
3328.19 of the Revised Code shall be punished as follows: 2180

(1) Except as otherwise provided in division (A)(2) of this 2181  
section, the person is guilty of a misdemeanor of the fourth 2182

degree. 2183

(2) The person is guilty of a misdemeanor of the first degree 2184  
if both of the following conditions apply: 2185

(a) The employee who is the subject of the report that the 2186  
person fails to submit was required to be reported for the 2187  
commission or alleged commission of an act or offense involving 2188  
the infliction on a child of any physical or mental wound, injury, 2189  
disability, or condition of a nature that constitutes abuse or 2190  
neglect of the child. 2191

(b) During the period between the violation of division (F) 2192  
of section 3328.19 of the Revised Code and the conviction of or 2193  
plea of guilty by the person for that violation, the employee who 2194  
is the subject of the report that the person fails to submit 2195  
inflicts on any child attending a school district, educational 2196  
service center, public or nonpublic school, or county board of 2197  
developmental disabilities where the employee works any physical 2198  
or mental wound, injury, disability, or condition of a nature that 2199  
constitutes abuse or neglect of the child. 2200

(B) Whoever violates division (B) of section 3328.193 of the 2201  
Revised Code is guilty of a misdemeanor of the first degree. 2202

**Sec. 4117.01.** As used in this chapter: 2203

(A) "Person," in addition to those included in division (C) 2204  
of section 1.59 of the Revised Code, includes employee 2205  
organizations, public employees, and public employers. 2206

(B) "Public employer" means the state or any political 2207  
subdivision of the state located entirely within the state, 2208  
including, without limitation, any municipal corporation with a 2209  
population of at least five thousand according to the most recent 2210  
federal decennial census; county; township with a population of at 2211  
least five thousand in the unincorporated area of the township 2212



according to the most recent federal decennial census; school 2213  
district; governing authority of a community school established 2214  
under Chapter 3314. of the Revised Code; college-preparatory 2215  
boarding school established under Chapter 3328. of the Revised 2216  
Code or its operator; state institution of higher learning; public 2217  
or special district; state agency, authority, commission, or 2218  
board; or other branch of public employment. "Public employer" 2219  
does not include the nonprofit corporation formed under section 2220  
187.01 of the Revised Code. 2221

(C) "Public employee" means any person holding a position by 2222  
appointment or employment in the service of a public employer, 2223  
including any person working pursuant to a contract between a 2224  
public employer and a private employer and over whom the national 2225  
labor relations board has declined jurisdiction on the basis that 2226  
the involved employees are employees of a public employer, except: 2227

(1) Persons holding elective office; 2228

(2) Employees of the general assembly and employees of any 2229  
other legislative body of the public employer whose principal 2230  
duties are directly related to the legislative functions of the 2231  
body; 2232

(3) Employees on the staff of the governor or the chief 2233  
executive of the public employer whose principal duties are 2234  
directly related to the performance of the executive functions of 2235  
the governor or the chief executive; 2236

(4) Persons who are members of the Ohio organized militia, 2237  
while training or performing duty under section 5919.29 or 5923.12 2238  
of the Revised Code; 2239

(5) Employees of the state employment relations board, 2240  
including those employees of the state employment relations board 2241  
utilized by the state personnel board of review in the exercise of 2242  
the powers and the performance of the duties and functions of the 2243

state personnel board of review;	2244
(6) Confidential employees;	2245
(7) Management level employees;	2246
(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;	2247 2248 2249
(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;	2250 2251 2252
(10) Supervisors;	2253
(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;	2254 2255 2256 2257 2258
(12) Employees of county boards of election;	2259
(13) Seasonal and casual employees as determined by the state employment relations board;	2260 2261
(14) Part-time faculty members of an institution of higher education;	2262 2263
(15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;	2264 2265 2266 2267 2268 2269
(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;	2270 2271 2272

(17) Employees of community-based correctional facilities and 2273  
district community-based correctional facilities created under 2274  
sections 2301.51 to 2301.58 of the Revised Code who are not 2275  
subject to a collective bargaining agreement on June 1, 2005. 2276

(D) "Employee organization" means any labor or bona fide 2277  
organization in which public employees participate and that exists 2278  
for the purpose, in whole or in part, of dealing with public 2279  
employers concerning grievances, labor disputes, wages, hours, 2280  
terms, and other conditions of employment. 2281

(E) "Exclusive representative" means the employee 2282  
organization certified or recognized as an exclusive 2283  
representative under section 4117.05 of the Revised Code. 2284

(F) "Supervisor" means any individual who has authority, in 2285  
the interest of the public employer, to hire, transfer, suspend, 2286  
lay off, recall, promote, discharge, assign, reward, or discipline 2287  
other public employees; to responsibly direct them; to adjust 2288  
their grievances; or to effectively recommend such action, if the 2289  
exercise of that authority is not of a merely routine or clerical 2290  
nature, but requires the use of independent judgment, provided 2291  
that: 2292

(1) Employees of school districts who are department 2293  
chairpersons or consulting teachers shall not be deemed 2294  
supervisors; 2295

(2) With respect to members of a police or fire department, 2296  
no person shall be deemed a supervisor except the chief of the 2297  
department or those individuals who, in the absence of the chief, 2298  
are authorized to exercise the authority and perform the duties of 2299  
the chief of the department. ~~Where prior to June 1, 1982, a public 2300~~  
~~employer pursuant to a judicial decision, rendered in litigation 2301~~  
~~to which the public employer was a party, has declined to engage 2302~~  
~~in collective bargaining with members of a police or fire 2303~~

~~department on the basis that those members are supervisors, those~~ 2304  
~~members of a police or fire department do not have the rights~~ 2305  
~~specified in this chapter for the purposes of future collective~~ 2306  
~~bargaining.~~ The state employment relations board shall decide all 2307  
disputes concerning the application of division (F)(2) of this 2308  
section. 2309

(3) With respect to faculty members of a state institution of 2310  
higher education, heads of departments or divisions are 2311  
supervisors; however, no other faculty member or group of faculty 2312  
members is a supervisor solely because the faculty member or group 2313  
of faculty members participate in decisions with respect to 2314  
courses, curriculum, personnel, or other matters of academic 2315  
policy; 2316

(4) No teacher as defined in section 3319.09 of the Revised 2317  
Code shall be designated as a supervisor or a management level 2318  
employee unless the teacher is employed under a contract governed 2319  
by section 3319.01, 3319.011, or 3319.02 of the Revised Code and 2320  
is assigned to a position for which a license deemed to be for 2321  
administrators under state board rules is required pursuant to 2322  
section 3319.22 of the Revised Code. 2323

(G) "To bargain collectively" means to perform the mutual 2324  
obligation of the public employer, by its representatives, and the 2325  
representatives of its employees to negotiate in good faith at 2326  
reasonable times and places with respect to wages, hours, terms, 2327  
and other conditions of employment and the continuation, 2328  
modification, or deletion of an existing provision of a collective 2329  
bargaining agreement, with the intention of reaching an agreement, 2330  
or to resolve questions arising under the agreement. "To bargain 2331  
collectively" includes executing a written contract incorporating 2332  
the terms of any agreement reached. The obligation to bargain 2333  
collectively does not mean that either party is compelled to agree 2334  
to a proposal nor does it require the making of a concession. 2335

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

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

(J) "Professional employee" means any employee engaged in work that is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized intellectual

instruction and is performing related work under the supervision 2368  
of a professional person to become qualified as a professional 2369  
employee. 2370

(K) "Confidential employee" means any employee who works in 2371  
the personnel offices of a public employer and deals with 2372  
information to be used by the public employer in collective 2373  
bargaining; or any employee who works in a close continuing 2374  
relationship with public officers or representatives directly 2375  
participating in collective bargaining on behalf of the employer. 2376

(L) "Management level employee" means an individual who 2377  
formulates policy on behalf of the public employer, who 2378  
responsibly directs the implementation of policy, or who may 2379  
reasonably be required on behalf of the public employer to assist 2380  
in the preparation for the conduct of collective negotiations, 2381  
administer collectively negotiated agreements, or have a major 2382  
role in personnel administration. Assistant superintendents, 2383  
principals, and assistant principals whose employment is governed 2384  
by section 3319.02 of the Revised Code are management level 2385  
employees. With respect to members of a faculty of a state 2386  
institution of higher education, no person is a management level 2387  
employee because of the person's involvement in the formulation or 2388  
implementation of academic or institution policy. 2389

(M) "Wages" means hourly rates of pay, salaries, or other 2390  
forms of compensation for services rendered. 2391

(N) "Member of a police department" means a person who is in 2392  
the employ of a police department of a municipal corporation as a 2393  
full-time regular police officer as the result of an appointment 2394  
from a duly established civil service eligibility list or under 2395  
section 737.15 or 737.16 of the Revised Code, a full-time deputy 2396  
sheriff appointed under section 311.04 of the Revised Code, a 2397  
township constable appointed under section 509.01 of the Revised 2398  
Code, or a member of a township police district police department 2399

appointed under section 505.49 of the Revised Code. 2400

(O) "Members of the state highway patrol" means highway 2401  
patrol troopers and radio operators appointed under section 2402  
5503.01 of the Revised Code. 2403

(P) "Member of a fire department" means a person who is in 2404  
the employ of a fire department of a municipal corporation or a 2405  
township as a fire cadet, full-time regular firefighter, or 2406  
promoted rank as the result of an appointment from a duly 2407  
established civil service eligibility list or under section 2408  
505.38, 709.012, or 737.22 of the Revised Code. 2409

(Q) "Day" means calendar day. 2410

**Section 2.** That existing sections 109.57, 3313.61, 3317.03, 2411  
3319.31, 3319.311, and 4117.01 of the Revised Code are hereby 2412  
repealed. 2413

**Section 3.** Section 3317.03 of the Revised Code is presented 2414  
in this act as a composite of the section as amended by both Am. 2415  
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. The 2416  
General Assembly, applying the principle stated in division (B) of 2417  
section 1.52 of the Revised Code that amendments are to be 2418  
harmonized if reasonably capable of simultaneous operation, finds 2419  
that the composite is the resulting version of the section in 2420  
effect prior to the effective date of the section as presented in 2421  
this act. 2422