

As Introduced

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

S. B. No. 67

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

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

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

Sec. 109.57. (A)(1) The superintendent of the bureau of 18
criminal identification and investigation shall procure from 19

wherever procurable and file for record photographs, pictures, 20
descriptions, fingerprints, measurements, and other information 21
that may be pertinent of all persons who have been convicted of 22
committing within this state a felony, any crime constituting a 23
misdemeanor on the first offense and a felony on subsequent 24
offenses, or any misdemeanor described in division (A)(1)(a), 25
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code, 26
of all children under eighteen years of age who have been 27
adjudicated delinquent children for committing within this state 28
an act that would be a felony or an offense of violence if 29
committed by an adult or who have been convicted of or pleaded 30
guilty to committing within this state a felony or an offense of 31
violence, and of all well-known and habitual criminals. The person 32
in charge of any county, multicounty, municipal, municipal-county, 33
or multicounty-municipal jail or workhouse, community-based 34
correctional facility, halfway house, alternative residential 35
facility, or state correctional institution and the person in 36
charge of any state institution having custody of a person 37
suspected of having committed a felony, any crime constituting a 38
misdemeanor on the first offense and a felony on subsequent 39
offenses, or any misdemeanor described in division (A)(1)(a), 40
(A)(8)(a), or (A)(10)(a) of section 109.572 of the Revised Code or 41
having custody of a child under eighteen years of age with respect 42
to whom there is probable cause to believe that the child may have 43
committed an act that would be a felony or an offense of violence 44
if committed by an adult shall furnish such material to the 45
superintendent of the bureau. Fingerprints, photographs, or other 46
descriptive information of a child who is under eighteen years of 47
age, has not been arrested or otherwise taken into custody for 48
committing an act that would be a felony or an offense of violence 49
who is not in any other category of child specified in this 50
division, if committed by an adult, has not been adjudicated a 51
delinquent child for committing an act that would be a felony or 52

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

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

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

this section;	85
(b) The style and number of the case;	86
(c) The date of arrest, offense, summons, or arraignment;	87
(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;	88 89 90 91 92 93 94 95 96 97 98 99
(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;	100 101
(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.	102 103 104 105
If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.	106 107 108 109 110
(3) The superintendent shall cooperate with and assist sheriffs, chiefs of police, and other law enforcement officers in the establishment of a complete system of criminal identification and in obtaining fingerprints and other means of identification of all persons arrested on a charge of a felony, any crime	111 112 113 114 115

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

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

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

superintendent's designee is the compact officer for purposes of 148
that compact and shall carry out the responsibilities of the 149
compact officer specified in that compact. 150

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

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

(2) The superintendent or the superintendent's designee shall 179

gather information of the nature described in division (C)(1) of 180
this section that pertains to the offense and delinquency history 181
of a person who has been convicted of, pleaded guilty to, or been 182
adjudicated a delinquent child for committing a sexually oriented 183
offense or a child-victim oriented offense for inclusion in the 184
state registry of sex offenders and child-victim offenders 185
maintained pursuant to division (A)(1) of section 2950.13 of the 186
Revised Code and in the internet database operated pursuant to 187
division (A)(13) of that section and for possible inclusion in the 188
internet database operated pursuant to division (A)(11) of that 189
section. 190

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

(4) The attorney general may adopt rules under Chapter 119. 197
of the Revised Code establishing guidelines for the operation of 198
and participation in the Ohio law enforcement gateway. The rules 199
may include criteria for granting and restricting access to 200
information gathered and disseminated through the Ohio law 201
enforcement gateway. The attorney general may appoint a steering 202
committee to advise the attorney general in the operation of the 203
Ohio law enforcement gateway that is comprised of persons who are 204
representatives of the criminal justice agencies in this state 205
that use the Ohio law enforcement gateway and is chaired by the 206
superintendent or the superintendent's designee. 207

(D)(1) The following are not public records under section 208
149.43 of the Revised Code: 209

(a) Information and materials furnished to the superintendent 210
pursuant to division (A) of this section; 211

(b) Information, data, and statistics gathered or 212
disseminated through the Ohio law enforcement gateway pursuant to 213
division (C)(1) of this section; 214

(c) Information and materials furnished to any board or 215
person under division (F) or (G) of this section. 216

(2) The superintendent or the superintendent's designee shall 217
gather and retain information so furnished under division (A) of 218
this section that pertains to the offense and delinquency history 219
of a person who has been convicted of, pleaded guilty to, or been 220
adjudicated a delinquent child for committing a sexually oriented 221
offense or a child-victim oriented offense for the purposes 222
described in division (C)(2) of this section. 223

(E) The attorney general shall adopt rules, in accordance 224
with Chapter 119. of the Revised Code, setting forth the procedure 225
by which a person may receive or release information gathered by 226
the superintendent pursuant to division (A) of this section. A 227
reasonable fee may be charged for this service. If a temporary 228
employment service submits a request for a determination of 229
whether a person the service plans to refer to an employment 230
position has been convicted of or pleaded guilty to an offense 231
listed in division (A)(1), (3), (4), (5), or (6) of section 232
109.572 of the Revised Code, the request shall be treated as a 233
single request and only one fee shall be charged. 234

(F)(1) As used in division (F)(2) of this section, "head 235
start agency" means an entity in this state that has been approved 236
to be an agency for purposes of subchapter II of the "Community 237
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 238
as amended. 239

(2)(a) In addition to or in conjunction with any request that 240
is required to be made under section 109.572, 2151.86, 3301.32, 241
3301.541, 3319.39, 3319.391, 3327.10, 3701.881, 5104.012, 242

5104.013, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code or that is made under section 3314.41, 3319.392, ~~or 3326.25~~, or 3328.20 of the Revised Code, the board of education of any school district; the director of developmental disabilities; any county board of developmental disabilities; any entity under contract with a county board of developmental disabilities; the chief administrator of any chartered nonpublic school; the chief administrator of any home health agency; the chief administrator of or person operating any child day-care center, type A family day-care home, or type B family day-care home licensed or certified under Chapter 5104. of the Revised Code; the administrator of any type C family day-care home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st general assembly; the chief administrator of any head start agency; the executive director of a public children services agency; a private company described in section 3314.41, 3319.392, ~~or 3326.25~~, or 3328.20 of the Revised Code; or an employer described in division (J)(2) of section 3327.10 of the Revised Code may request that the superintendent of the bureau investigate and determine, with respect to any individual who has applied for employment in any position after October 2, 1989, or any individual wishing to apply for employment with a board of education may request, with regard to the individual, whether the bureau has any information gathered under division (A) of this section that pertains to that individual. On receipt of the request, the superintendent shall determine whether that information exists and, upon request of the person, board, or entity requesting information, also shall request from the federal bureau of investigation any criminal records it has pertaining to that individual. The superintendent or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in

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

(b) When a board of education is required to receive 286
information under this section as a prerequisite to employment of 287
an individual pursuant to section 3319.39 of the Revised Code, it 288
may accept a certified copy of records that were issued by the 289
bureau of criminal identification and investigation and that are 290
presented by an individual applying for employment with the 291
district in lieu of requesting that information itself. In such a 292
case, the board shall accept the certified copy issued by the 293
bureau in order to make a photocopy of it for that individual's 294
employment application documents and shall return the certified 295
copy to the individual. In a case of that nature, a district only 296
shall accept a certified copy of records of that nature within one 297
year after the date of their issuance by the bureau. 298

(c) Notwithstanding division (F)(2)(a) of this section, in 299
the case of a request under section 3319.39, 3319.391, or 3327.10 300
of the Revised Code only for criminal records maintained by the 301
federal bureau of investigation, the superintendent shall not 302
determine whether any information gathered under division (A) of 303
this section exists on the person for whom the request is made. 304

(3) The state board of education may request, with respect to 305
any individual who has applied for employment after October 2, 306
1989, in any position with the state board or the department of 307

education, any information that a school district board of 308
education is authorized to request under division (F)(2) of this 309
section, and the superintendent of the bureau shall proceed as if 310
the request has been received from a school district board of 311
education under division (F)(2) of this section. 312

(4) When the superintendent of the bureau receives a request 313
for information under section 3319.291 of the Revised Code, the 314
superintendent shall proceed as if the request has been received 315
from a school district board of education and shall comply with 316
divisions (F)(2)(a) and (c) of this section. 317

(5) When a recipient of a classroom reading improvement grant 318
paid under section 3301.86 of the Revised Code requests, with 319
respect to any individual who applies to participate in providing 320
any program or service funded in whole or in part by the grant, 321
the information that a school district board of education is 322
authorized to request under division (F)(2)(a) of this section, 323
the superintendent of the bureau shall proceed as if the request 324
has been received from a school district board of education under 325
division (F)(2)(a) of this section. 326

(G) In addition to or in conjunction with any request that is 327
required to be made under section 3701.881, 3712.09, 3721.121, or 328
3722.151 of the Revised Code with respect to an individual who has 329
applied for employment in a position that involves providing 330
direct care to an older adult, the chief administrator of a home 331
health agency, hospice care program, home licensed under Chapter 332
3721. of the Revised Code, adult day-care program operated 333
pursuant to rules adopted under section 3721.04 of the Revised 334
Code, or adult care facility may request that the superintendent 335
of the bureau investigate and determine, with respect to any 336
individual who has applied after January 27, 1997, for employment 337
in a position that does not involve providing direct care to an 338
older adult, whether the bureau has any information gathered under 339

division (A) of this section that pertains to that individual. 340

In addition to or in conjunction with any request that is 341
required to be made under section 173.27 of the Revised Code with 342
respect to an individual who has applied for employment in a 343
position that involves providing ombudsperson services to 344
residents of long-term care facilities or recipients of 345
community-based long-term care services, the state long-term care 346
ombudsperson, ombudsperson's designee, or director of health may 347
request that the superintendent investigate and determine, with 348
respect to any individual who has applied for employment in a 349
position that does not involve providing such ombudsperson 350
services, whether the bureau has any information gathered under 351
division (A) of this section that pertains to that applicant. 352

In addition to or in conjunction with any request that is 353
required to be made under section 173.394 of the Revised Code with 354
respect to an individual who has applied for employment in a 355
position that involves providing direct care to an individual, the 356
chief administrator of a community-based long-term care agency may 357
request that the superintendent investigate and determine, with 358
respect to any individual who has applied for employment in a 359
position that does not involve providing direct care, whether the 360
bureau has any information gathered under division (A) of this 361
section that pertains to that applicant. 362

On receipt of a request under this division, the 363
superintendent shall determine whether that information exists 364
and, on request of the individual requesting information, shall 365
also request from the federal bureau of investigation any criminal 366
records it has pertaining to the applicant. The superintendent or 367
the superintendent's designee also may request criminal history 368
records from other states or the federal government pursuant to 369
the national crime prevention and privacy compact set forth in 370
section 109.571 of the Revised Code. Within thirty days of the 371

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

(H) Information obtained by a government entity or person 380
under this section is confidential and shall not be released or 381
disseminated. 382

(I) The superintendent may charge a reasonable fee for 383
providing information or criminal records under division (F)(2) or 384
(G) of this section. 385

(J) As used in this section, "sexually oriented offense" and 386
"child-victim oriented offense" have the same meanings as in 387
section 2950.01 of the Revised Code. 388

Sec. 3313.61. (A) A diploma shall be granted by the board of 389
education of any city, exempted village, or local school district 390
that operates a high school to any person to whom all of the 391
following apply: 392

(1) The person has successfully completed the curriculum in 393
any high school or the individualized education program developed 394
for the person by any high school pursuant to section 3323.08 of 395
the Revised Code, or has qualified under division (D) or (F) of 396
section 3313.603 of the Revised Code, provided that no school 397
district shall require a student to remain in school for any 398
specific number of semesters or other terms if the student 399
completes the required curriculum early; 400

(2) Subject to section 3313.614 of the Revised Code, the 401

person has met the assessment requirements of division (A)(2)(a) 402
or (b) of this section, as applicable. 403

(a) If the person entered the ninth grade prior to the date 404
prescribed by rule of the state board of education under division 405
(E)(2) of section 3301.0712 of the Revised Code, the person 406
either: 407

(i) Has attained at least the applicable scores designated 408
under division (B)(1) of section 3301.0710 of the Revised Code on 409
all the assessments required by that division unless the person 410
was excused from taking any such assessment pursuant to section 411
3313.532 of the Revised Code or unless division (H) or (L) of this 412
section applies to the person; 413

(ii) Has satisfied the alternative conditions prescribed in 414
section 3313.615 of the Revised Code. 415

(b) If the person entered the ninth grade on or after the 416
date prescribed by rule of the state board under division (E)(2) 417
of section 3301.0712 of the Revised Code, the person has attained 418
on the entire assessment system prescribed under division (B)(2) 419
of section 3301.0710 of the Revised Code at least the required 420
passing composite score, designated under division (C)(1) of 421
section 3301.0712 of the Revised Code, except to the extent that 422
the person is excused from some portion of that assessment system 423
pursuant to section 3313.532 of the Revised Code or division (H) 424
or (L) of this section. 425

(3) The person is not eligible to receive an honors diploma 426
granted pursuant to division (B) of this section. 427

Except as provided in divisions (C), (E), (J), and (L) of 428
this section, no diploma shall be granted under this division to 429
anyone except as provided under this division. 430

(B) In lieu of a diploma granted under division (A) of this 431
section, an honors diploma shall be granted, in accordance with 432

rules of the state board, by any such district board to anyone who 433
accomplishes all of the following: 434

(1) Successfully completes the curriculum in any high school 435
or the individualized education program developed for the person 436
by any high school pursuant to section 3323.08 of the Revised 437
Code; 438

(2) Subject to section 3313.614 of the Revised Code, has met 439
the assessment requirements of division (B)(2)(a) or (b) of this 440
section, as applicable. 441

(a) If the person entered the ninth grade prior to the date 442
prescribed by rule of the state board of education under division 443
(E)(2) of section 3301.0712 of the Revised Code, the person 444
either: 445

(i) Has attained at least the applicable scores designated 446
under division (B)(1) of section 3301.0710 of the Revised Code on 447
all the assessments required by that division; 448

(ii) Has satisfied the alternative conditions prescribed in 449
section 3313.615 of the Revised Code. 450

(b) If the person entered the ninth grade on or after the 451
date prescribed by rule of the state board under division (E)(2) 452
of section 3301.0712 of the Revised Code, the person has attained 453
on the entire assessment system prescribed under division (B)(2) 454
of section 3301.0710 of the Revised Code at least the required 455
passing composite score, designated under division (C)(1) of 456
section 3301.0712 of the Revised Code. 457

(3) Has met additional criteria established by the state 458
board for the granting of such a diploma. 459

An honors diploma shall not be granted to a student who is 460
subject to the Ohio core curriculum prescribed in division (C) of 461
section 3313.603 of the Revised Code but elects the option of 462

division (D) or (F) of that section. Except as provided in 463
divisions (C), (E), and (J) of this section, no honors diploma 464
shall be granted to anyone failing to comply with this division 465
and no more than one honors diploma shall be granted to any 466
student under this division. 467

The state board shall adopt rules prescribing the granting of 468
honors diplomas under this division. These rules may prescribe the 469
granting of honors diplomas that recognize a student's achievement 470
as a whole or that recognize a student's achievement in one or 471
more specific subjects or both. The rules may prescribe the 472
granting of an honors diploma recognizing technical expertise for 473
a career-technical student. In any case, the rules shall designate 474
two or more criteria for the granting of each type of honors 475
diploma the board establishes under this division and the number 476
of such criteria that must be met for the granting of that type of 477
diploma. The number of such criteria for any type of honors 478
diploma shall be at least one less than the total number of 479
criteria designated for that type and no one or more particular 480
criteria shall be required of all persons who are to be granted 481
that type of diploma. 482

(C) Any district board administering any of the assessments 483
required by section 3301.0710 of the Revised Code to any person 484
requesting to take such assessment pursuant to division (B)(8)(b) 485
of section 3301.0711 of the Revised Code shall award a diploma to 486
such person if the person attains at least the applicable scores 487
designated under division (B)(1) of section 3301.0710 of the 488
Revised Code on all the assessments administered and if the person 489
has previously attained the applicable scores on all the other 490
assessments required by division (B)(1) of that section or has 491
been exempted or excused from attaining the applicable score on 492
any such assessment pursuant to division (H) or (L) of this 493
section or from taking any such assessment pursuant to section 494

3313.532 of the Revised Code. 495

(D) Each diploma awarded under this section shall be signed 496
by the president and treasurer of the issuing board, the 497
superintendent of schools, and the principal of the high school. 498
Each diploma shall bear the date of its issue, be in such form as 499
the district board prescribes, and be paid for out of the 500
district's general fund. 501

(E) A person who is a resident of Ohio and is eligible under 502
state board of education minimum standards to receive a high 503
school diploma based in whole or in part on credits earned while 504
an inmate of a correctional institution operated by the state or 505
any political subdivision thereof, shall be granted such diploma 506
by the correctional institution operating the programs in which 507
such credits were earned, and by the board of education of the 508
school district in which the inmate resided immediately prior to 509
the inmate's placement in the institution. The diploma granted by 510
the correctional institution shall be signed by the director of 511
the institution, and by the person serving as principal of the 512
institution's high school and shall bear the date of issue. 513

(F) Persons who are not residents of Ohio but who are inmates 514
of correctional institutions operated by the state or any 515
political subdivision thereof, and who are eligible under state 516
board of education minimum standards to receive a high school 517
diploma based in whole or in part on credits earned while an 518
inmate of the correctional institution, shall be granted a diploma 519
by the correctional institution offering the program in which the 520
credits were earned. The diploma granted by the correctional 521
institution shall be signed by the director of the institution and 522
by the person serving as principal of the institution's high 523
school and shall bear the date of issue. 524

(G) The state board of education shall provide by rule for 525
the administration of the assessments required by section 526

3301.0710 of the Revised Code to inmates of correctional 527
institutions. 528

(H) Any person to whom all of the following apply shall be 529
exempted from attaining the applicable score on the assessment in 530
social studies designated under division (B)(1) of section 531
3301.0710 of the Revised Code, any social studies end-of-course 532
examination required under division (B)(2) of that section if such 533
an exemption is prescribed by rule of the state board under 534
division (E)(4) of section 3301.0712 of the Revised Code, or the 535
test in citizenship designated under former division (B) of 536
section 3301.0710 of the Revised Code as it existed prior to 537
September 11, 2001: 538

(1) The person is not a citizen of the United States; 539

(2) The person is not a permanent resident of the United 540
States; 541

(3) The person indicates no intention to reside in the United 542
States after the completion of high school. 543

(I) Notwithstanding division (D) of section 3311.19 and 544
division (D) of section 3311.52 of the Revised Code, this section 545
and section 3311.611 of the Revised Code do not apply to the board 546
of education of any joint vocational school district or any 547
cooperative education school district established pursuant to 548
divisions (A) to (C) of section 3311.52 of the Revised Code. 549

(J) Upon receipt of a notice under division (D) of section 550
3325.08 or division (D) of section 3328.25 of the Revised Code 551
that a student has received a diploma under ~~that~~ either section, 552
the board of education receiving the notice may grant a high 553
school diploma under this section to the student, except that such 554
board shall grant the student a diploma if the student meets the 555
graduation requirements that the student would otherwise have had 556
to meet to receive a diploma from the district. The diploma 557

granted under this section shall be of the same type the notice 558
indicates the student received under section 3325.08 or 3328.25 of 559
the Revised Code. 560

(K) As used in this division, "limited English proficient 561
student" has the same meaning as in division (C)(3) of section 562
3301.0711 of the Revised Code. 563

Notwithstanding division (C)(3) of section 3301.0711 of the 564
Revised Code, no limited English proficient student who has not 565
either attained the applicable scores designated under division 566
(B)(1) of section 3301.0710 of the Revised Code on all the 567
assessments required by that division, or attained the composite 568
score designated for the assessments required by division (B)(2) 569
of that section, shall be awarded a diploma under this section. 570

(L) Any student described by division (A)(1) of this section 571
may be awarded a diploma without attaining the applicable scores 572
designated on the assessments prescribed under division (B) of 573
section 3301.0710 of the Revised Code provided an individualized 574
education program specifically exempts the student from attaining 575
such scores. This division does not negate the requirement for 576
such a student to take all such assessments or alternate 577
assessments required by division (C)(1) of section 3301.0711 of 578
the Revised Code for the purpose of assessing student progress as 579
required by federal law. 580

Sec. 3317.03. The information certified and verified under 581
this section shall be used to calculate payments under this 582
chapter and Chapter 3306. of the Revised Code. 583

(A) The superintendent of each city, local, and exempted 584
village school district and of each educational service center 585
shall, for the schools under the superintendent's supervision, 586
certify to the state board of education on or before the fifteenth 587
day of October in each year for the first full school week in 588

October the average daily membership of students receiving 589
services from schools under the superintendent's supervision, and 590
the numbers of other students entitled to attend school in the 591
district under section 3313.64 or 3313.65 of the Revised Code the 592
superintendent is required to report under this section, so that 593
the department of education can calculate the district's formula 594
ADM. If a school under the superintendent's supervision is closed 595
for one or more days during that week due to hazardous weather 596
conditions or other circumstances described in the first paragraph 597
of division (B) of section 3317.01 of the Revised Code, the 598
superintendent may apply to the superintendent of public 599
instruction for a waiver, under which the superintendent of public 600
instruction may exempt the district superintendent from certifying 601
the average daily membership for that school for that week and 602
specify an alternate week for certifying the average daily 603
membership of that school. 604

The average daily membership during such week shall consist 605
of the sum of the following: 606

(1) On an FTE basis, the number of students in grades 607
kindergarten through twelve receiving any educational services 608
from the district, except that the following categories of 609
students shall not be included in the determination: 610

(a) Students enrolled in adult education classes; 611

(b) Adjacent or other district students enrolled in the 612
district under an open enrollment policy pursuant to section 613
3313.98 of the Revised Code; 614

(c) Students receiving services in the district pursuant to a 615
compact, cooperative education agreement, or a contract, but who 616
are entitled to attend school in another district pursuant to 617
section 3313.64 or 3313.65 of the Revised Code; 618

(d) Students for whom tuition is payable pursuant to sections 619

3317.081 and 3323.141 of the Revised Code;	620
(e) Students receiving services in the district through a scholarship awarded under section 3310.41 of the Revised Code.	621 622
(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:	623 624 625 626 627
(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;	628 629 630 631
(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;	632 633 634
(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;	635 636 637 638 639
(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;	640 641 642
(e) An educational service center or cooperative education district;	643 644
(f) Another school district under a cooperative education agreement, compact, or contract;	645 646
(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	647 648
(h) An alternative public provider or a registered private	649

provider with a scholarship awarded under section 3310.41 of the Revised Code. 650
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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. 652
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(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; 655
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(j) A college-preparatory boarding school established under Chapter 3328. of the Revised Code. 659
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(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; 661
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(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. 669
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(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 677
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separately the following student counts for the same week for 681
which average daily membership is certified: 682

(1) The total average daily membership in regular learning 683
day classes included in the report under division (A)(1) or (2) of 684
this section for each of the individual grades kindergarten 685
through twelve in schools under the superintendent's supervision; 686

(2) The number of all preschool children with disabilities 687
enrolled as of the first day of December in classes in the 688
district that are eligible for approval under division (B) of 689
section 3317.05 of the Revised Code and the number of those 690
classes, which shall be reported not later than the fifteenth day 691
of December, in accordance with rules adopted under that section; 692

(3) The number of children entitled to attend school in the 693
district pursuant to section 3313.64 or 3313.65 of the Revised 694
Code who are: 695

(a) Participating in a pilot project scholarship program 696
established under sections 3313.974 to 3313.979 of the Revised 697
Code as described in division (I)(2)(a) or (b) of this section; 698

(b) Enrolled in a college under Chapter 3365. of the Revised 699
Code, except when the student is enrolled in the college while 700
also enrolled in a community school pursuant to Chapter 3314. or a 701
science, technology, engineering, and mathematics school 702
established under Chapter 3326. of the Revised Code; 703

(c) Enrolled in an adjacent or other school district under 704
section 3313.98 of the Revised Code; 705

(d) Enrolled in a community school established under Chapter 706
3314. of the Revised Code that is not an internet- or 707
computer-based community school as defined in section 3314.02 of 708
the Revised Code, including any participation in a college 709
pursuant to Chapter 3365. of the Revised Code while enrolled in 710
such community school; 711

(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;	712 713 714 715
(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;	716 717
(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;	718 719 720
(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;	721 722 723
(i) Participating in a program operated by a county DD board or a state institution;	724 725
(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;	726 727 728 729
<u>(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code.</u>	730 731
(4) The number of pupils enrolled in joint vocational schools;	732 733
(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;	734 735 736 737 738
(6) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities	739 740 741

described in division (D)(2) of section 3306.02 of the Revised Code;	742 743
(7) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division (D)(3) of section 3306.02 of the Revised Code;	744 745 746 747 748
(8) The average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division (D)(4) of section 3306.02 of the Revised Code;	749 750 751 752 753
(9) 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 five disabilities described in division (D)(5) of section 3306.02 of the Revised Code;	754 755 756 757 758
(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education services for category six disabilities described in division (D)(6) of section 3306.02 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;	759 760 761 762 763 764 765 766
(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center,	767 768 769 770 771 772

excluding any student reported under division (B)(3)(e) of this 773
section as enrolled in an internet- or computer-based community 774
school, notwithstanding division (C) of section 3317.02 of the 775
Revised Code and division (C)(3) of this section; 776

(12) The average daily membership of pupils reported under 777
division (A)(1) or (2) of this section enrolled in category two 778
vocational education programs or services, described in division 779
(B) of section 3317.014 of the Revised Code, operated by the 780
school district or another school district, other than a joint 781
vocational school district, or by an educational service center, 782
excluding any student reported under division (B)(3)(e) of this 783
section as enrolled in an internet- or computer-based community 784
school, notwithstanding division (C) of section 3317.02 of the 785
Revised Code and division (C)(3) of this section; 786

Beginning with fiscal year 2010, vocational education ADM 787
shall not be used to calculate a district's funding but shall be 788
reported under divisions (B)(11) and (12) of this section for 789
statistical purposes. 790

(13) The average number of children transported by the school 791
district on board-owned or contractor-owned and -operated buses, 792
reported in accordance with rules adopted by the department of 793
education; 794

(14)(a) The number of children, other than preschool children 795
with disabilities, the district placed with a county DD board in 796
fiscal year 1998; 797

(b) The number of children with disabilities, other than 798
preschool children with disabilities, placed with a county DD 799
board in the current fiscal year to receive special education 800
services for the category one disability described in division 801
(D)(1) of section 3306.02 of the Revised Code; 802

(c) The number of children with disabilities, other than 803

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; 804
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(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; 808
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(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; 813
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(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; 818
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(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. 823
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(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 828
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student regardless of whether the student is enrolled in a 835
part-day or all-day kindergarten class. 836

(2) A student enrolled in a community school established 837
under Chapter 3314. ~~or~~ a science, technology, engineering, and 838
mathematics school established under Chapter 3326.; or a 839
college-preparatory boarding school established under Chapter 840
3328. of the Revised Code shall be counted in the formula ADM and, 841
if applicable, the category one, two, three, four, five, or six 842
special education ADM of the school district in which the student 843
is entitled to attend school under section 3313.64 or 3313.65 of 844
the Revised Code for the same proportion of the school year that 845
the student is counted in the enrollment of the community school 846
~~or the~~ science, technology, engineering, and mathematics school; 847
or college-preparatory boarding school for purposes of section 848
3314.08 ~~or~~, 3326.33, or 3328.34 of the Revised Code. 849
Notwithstanding the number of students reported pursuant to 850
division (B)(3)(d), (e), ~~or (j), or (k)~~ of this section, the 851
department may adjust the formula ADM of a school district to 852
account for students entitled to attend school in the district 853
under section 3313.64 or 3313.65 of the Revised Code who are 854
enrolled in a community school ~~or a~~ science, technology, 855
engineering, and mathematics school; or college-preparatory 856
boarding school for only a portion of the school year. 857

(3) No child shall be counted as more than a total of one 858
child in the sum of the average daily memberships of a school 859
district under division (A), divisions (B)(1) to (12), or division 860
(D) of this section, except as follows: 861

(a) A child with a disability described in division (D) of 862
section 3306.02 of the Revised Code may be counted both in formula 863
ADM and in category one, two, three, four, five, or six special 864
education ADM and, if applicable, in category one or two 865
vocational education ADM. As provided in division (C) of section 866

3317.02 of the Revised Code, such a child shall be counted in 867
category one, two, three, four, five, or six special education ADM 868
in the same proportion that the child is counted in formula ADM. 869

(b) A child enrolled in vocational education programs or 870
classes described in section 3317.014 of the Revised Code may be 871
counted both in formula ADM and category one or two vocational 872
education ADM and, if applicable, in category one, two, three, 873
four, five, or six special education ADM. Such a child shall be 874
counted in category one or two vocational education ADM in the 875
same proportion as the percentage of time that the child spends in 876
the vocational education programs or classes. 877

(4) Based on the information reported under this section, the 878
department of education shall determine the total student count, 879
as defined in section 3301.011 of the Revised Code, for each 880
school district. 881

(D)(1) The superintendent of each joint vocational school 882
district shall certify to the superintendent of public instruction 883
on or before the fifteenth day of October in each year for the 884
first full school week in October the formula ADM, for purposes of 885
section 3318.42 of the Revised Code and for any other purpose 886
prescribed by law for which "formula ADM" of the joint vocational 887
district is a factor. If a school operated by the joint vocational 888
school district is closed for one or more days during that week 889
due to hazardous weather conditions or other circumstances 890
described in the first paragraph of division (B) of section 891
3317.01 of the Revised Code, the superintendent may apply to the 892
superintendent of public instruction for a waiver, under which the 893
superintendent of public instruction may exempt the district 894
superintendent from certifying the formula ADM for that school for 895
that week and specify an alternate week for certifying the formula 896
ADM of that school. 897

The formula ADM, except as otherwise provided in this 898

division, shall consist of the average daily membership during 899
such week, on an FTE basis, of the number of students receiving 900
any educational services from the district, including students 901
enrolled in a community school established under Chapter 3314. or 902
a science, technology, engineering, and mathematics school 903
established under Chapter 3326. of the Revised Code who are 904
attending the joint vocational district under an agreement between 905
the district board of education and the governing authority of the 906
community school or the governing body of the science, technology, 907
engineering, and mathematics school and are entitled to attend 908
school in a city, local, or exempted village school district whose 909
territory is part of the territory of the joint vocational 910
district. 911

The following categories of students shall not be included in 912
the determination made under division (D)(1) of this section: 913

(a) Students enrolled in adult education classes; 914

(b) Adjacent or other district joint vocational students 915
enrolled in the district under an open enrollment policy pursuant 916
to section 3313.98 of the Revised Code; 917

(c) Students receiving services in the district pursuant to a 918
compact, cooperative education agreement, or a contract, but who 919
are entitled to attend school in a city, local, or exempted 920
village school district whose territory is not part of the 921
territory of the joint vocational district; 922

(d) Students for whom tuition is payable pursuant to sections 923
3317.081 and 3323.141 of the Revised Code. 924

(2) In addition to the formula ADM, each superintendent shall 925
report separately the average daily membership included in the 926
report under division (D)(1) of this section for each of the 927
following categories of students for the same week for which 928
formula ADM is certified: 929

(a) Students enrolled in each individual grade included in the joint vocational district schools;	930 931
(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;	932 933 934
(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;	935 936 937
(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;	938 939 940
(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;	941 942 943
(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;	944 945 946
(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;	947 948 949
(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;	950 951 952
(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.	953 954 955
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 to attend school pursuant to section 3313.64 or 3313.65 of the	956 957 958 959

Revised Code. 960

(E) In each school of each city, local, exempted village, 961
joint vocational, and cooperative education school district there 962
shall be maintained a record of school membership, which record 963
shall accurately show, for each day the school is in session, the 964
actual membership enrolled in regular day classes. For the purpose 965
of determining average daily membership, the membership figure of 966
any school shall not include any pupils except those pupils 967
described by division (A) of this section. The record of 968
membership for each school shall be maintained in such manner that 969
no pupil shall be counted as in membership prior to the actual 970
date of entry in the school and also in such manner that where for 971
any cause a pupil permanently withdraws from the school that pupil 972
shall not be counted as in membership from and after the date of 973
such withdrawal. There shall not be included in the membership of 974
any school any of the following: 975

(1) Any pupil who has graduated from the twelfth grade of a 976
public or nonpublic high school; 977

(2) Any pupil who is not a resident of the state; 978

(3) Any pupil who was enrolled in the schools of the district 979
during the previous school year when assessments were administered 980
under section 3301.0711 of the Revised Code but did not take one 981
or more of the assessments required by that section and was not 982
excused pursuant to division (C)(1) or (3) of that section; 983

(4) Any pupil who has attained the age of twenty-two years, 984
except for veterans of the armed services whose attendance was 985
interrupted before completing the recognized twelve-year course of 986
the public schools by reason of induction or enlistment in the 987
armed forces and who apply for reenrollment in the public school 988
system of their residence not later than four years after 989
termination of war or their honorable discharge. 990

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

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

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

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

(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 1023
superintendent of schools of any city, exempted village, or joint 1024
vocational school district or educational service center shall 1025
certify such increase to the superintendent of public instruction. 1026
Such certification shall be submitted no later than the fifteenth 1027
day of February. For the balance of the fiscal year, beginning 1028
with the February payments, the superintendent of public 1029
instruction shall use the increased formula ADM in calculating or 1030
recalculating the amounts to be allocated in accordance with 1031
section 3317.022 or 3317.16 of the Revised Code. In no event shall 1032
the superintendent use an increased membership certified to the 1033
superintendent after the fifteenth day of February. Division 1034
(F)(1) of this section does not apply after fiscal year 2006. 1035

(2) If on the first school day of April the total number of 1036
classes or units for preschool children with disabilities that are 1037
eligible for approval under division (B) of section 3317.05 of the 1038
Revised Code exceeds the number of units that have been approved 1039
for the year under that division, the superintendent of schools of 1040
any city, exempted village, or cooperative education school 1041
district or educational service center shall make the 1042
certifications required by this section for that day. If the 1043
department determines additional units can be approved for the 1044
fiscal year within any limitations set forth in the acts 1045
appropriating moneys for the funding of such units, the department 1046
shall approve additional units for the fiscal year on the basis of 1047
such average daily membership. For each unit so approved, the 1048
department shall pay an amount computed in the manner prescribed 1049
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 1050
Code. 1051

(3) If a student attending a community school under Chapter 1052
3314. ~~or~~ a science, technology, engineering, and mathematics 1053
school established under Chapter 3326. or a college-preparatory 1054

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

(4) If a student awarded an educational choice scholarship is 1069
not included in the formula ADM of the school district from which 1070
the department deducts funds for the scholarship under section 1071
3310.08 of the Revised Code, the department shall adjust the 1072
formula ADM of that school district to include the student to the 1073
extent necessary to account for the deduction, and shall 1074
recalculate the school district's payments under this chapter and 1075
Chapter 3306. of the Revised Code for the entire fiscal year on 1076
the basis of that adjusted formula ADM. This requirement applies 1077
regardless of whether the student was enrolled, as defined in 1078
division (E) of this section, in the chartered nonpublic school, 1079
the school district, or a community school during the week for 1080
which the formula ADM is being certified. 1081

(G)(1)(a) The superintendent of an institution operating a 1082
special education program pursuant to section 3323.091 of the 1083
Revised Code shall, for the programs under such superintendent's 1084
supervision, certify to the state board of education, in the 1085
manner prescribed by the superintendent of public instruction, 1086

both of the following: 1087

(i) The average daily membership of all children with 1088
disabilities other than preschool children with disabilities 1089
receiving services at the institution for each category of 1090
disability described in divisions (D)(1) to (6) of section 3306.02 1091
of the Revised Code; 1092

(ii) The average daily membership of all preschool children 1093
with disabilities in classes or programs approved annually by the 1094
department of education for unit funding under section 3317.05 of 1095
the Revised Code. 1096

(b) The superintendent of an institution with vocational 1097
education units approved under division (A) of section 3317.05 of 1098
the Revised Code shall, for the units under the superintendent's 1099
supervision, certify to the state board of education the average 1100
daily membership in those units, in the manner prescribed by the 1101
superintendent of public instruction. 1102

(2) The superintendent of each county DD board that maintains 1103
special education classes under section 3317.20 of the Revised 1104
Code or units approved pursuant to section 3317.05 of the Revised 1105
Code shall do both of the following: 1106

(a) Certify to the state board, in the manner prescribed by 1107
the board, the average daily membership in classes under section 1108
3317.20 of the Revised Code for each school district that has 1109
placed children in the classes; 1110

(b) Certify to the state board, in the manner prescribed by 1111
the board, the number of all preschool children with disabilities 1112
enrolled as of the first day of December in classes eligible for 1113
approval under division (B) of section 3317.05 of the Revised 1114
Code, and the number of those classes. 1115

(3)(a) If on the first school day of April the number of 1116
classes or units maintained for preschool children with 1117

disabilities by the county DD board that are eligible for approval 1118
under division (B) of section 3317.05 of the Revised Code is 1119
greater than the number of units approved for the year under that 1120
division, the superintendent shall make the certification required 1121
by this section for that day. 1122

(b) If the department determines that additional classes or 1123
units can be approved for the fiscal year within any limitations 1124
set forth in the acts appropriating moneys for the funding of the 1125
classes and units described in division (G)(3)(a) of this section, 1126
the department shall approve and fund additional units for the 1127
fiscal year on the basis of such average daily membership. For 1128
each unit so approved, the department shall pay an amount computed 1129
in the manner prescribed in sections 3317.052 and 3317.053 of the 1130
Revised Code. 1131

(H) Except as provided in division (I) of this section, when 1132
any city, local, or exempted village school district provides 1133
instruction for a nonresident pupil whose attendance is 1134
unauthorized attendance as defined in section 3327.06 of the 1135
Revised Code, that pupil's membership shall not be included in 1136
that district's membership figure used in the calculation of that 1137
district's formula ADM or included in the determination of any 1138
unit approved for the district under section 3317.05 of the 1139
Revised Code. The reporting official shall report separately the 1140
average daily membership of all pupils whose attendance in the 1141
district is unauthorized attendance, and the membership of each 1142
such pupil shall be credited to the school district in which the 1143
pupil is entitled to attend school under division (B) of section 1144
3313.64 or section 3313.65 of the Revised Code as determined by 1145
the department of education. 1146

(I)(1) A city, local, exempted village, or joint vocational 1147
school district admitting a scholarship student of a pilot project 1148
district pursuant to division (C) of section 3313.976 of the 1149

Revised Code may count such student in its average daily membership. 1150
1151

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership: 1152
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(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code; 1157
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(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school. 1160
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(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 1163
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(K) If the superintendent of public instruction determines that a component of the average daily membership certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXIII of the Revised Code be adjusted in the amount of the error. 1171
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Sec. 3319.31. (A) As used in this section and sections 3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" 1178
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means a certificate, license, or permit described in this chapter 1180
or in division (B) of section 3301.071 or in section 3301.074 of 1181
the Revised Code. 1182

(B) For any of the following reasons, the state board of 1183
education, in accordance with Chapter 119. and section 3319.311 of 1184
the Revised Code, may refuse to issue a license to an applicant; 1185
may limit a license it issues to an applicant; may suspend, 1186
revoke, or limit a license that has been issued to any person; or 1187
may revoke a license that has been issued to any person and has 1188
expired: 1189

(1) Engaging in an immoral act, incompetence, negligence, or 1190
conduct that is unbecoming to the applicant's or person's 1191
position; 1192

(2) A plea of guilty to, a finding of guilt by a jury or 1193
court of, or a conviction of any of the following: 1194

(a) A felony other than a felony listed in division (C) of 1195
this section; 1196

(b) An offense of violence other than an offense of violence 1197
listed in division (C) of this section; 1198

(c) A theft offense, as defined in section 2913.01 of the 1199
Revised Code, other than a theft offense listed in division (C) of 1200
this section; 1201

(d) A drug abuse offense, as defined in section 2925.01 of 1202
the Revised Code, that is not a minor misdemeanor, other than a 1203
drug abuse offense listed in division (C) of this section; 1204

(e) A violation of an ordinance of a municipal corporation 1205
that is substantively comparable to an offense listed in divisions 1206
(B)(2)(a) to (d) of this section. 1207

(3) A judicial finding of eligibility for intervention in 1208
lieu of conviction under section 2951.041 of the Revised Code, or 1209

agreeing to participate in a pre-trial diversion program under 1210
section 2935.36 of the Revised Code, or a similar diversion 1211
program under rules of a court, for any offense listed in division 1212
(B)(2) or (C) of this section; 1213

(4) Failure to comply with section 3314.40, 3319.313, 1214
3326.24, 3328.19, or 5126.253 of the Revised Code. 1215

(C) Upon learning of a plea of guilty to, a finding of guilt 1216
by a jury or court of, or a conviction of any of the offenses 1217
listed in this division by a person who holds a current or expired 1218
license or is an applicant for a license or renewal of a license, 1219
the state board or the superintendent of public instruction, if 1220
the state board has delegated the duty pursuant to division (D) of 1221
this section, shall by a written order revoke the person's license 1222
or deny issuance or renewal of the license to the person. The 1223
state board or the superintendent shall revoke a license that has 1224
been issued to a person to whom this division applies and has 1225
expired in the same manner as a license that has not expired. 1226

Revocation of a license or denial of issuance or renewal of a 1227
license under this division is effective immediately at the time 1228
and date that the board or superintendent issues the written order 1229
and is not subject to appeal in accordance with Chapter 119. of 1230
the Revised Code. Revocation of a license or denial of issuance or 1231
renewal of license under this division remains in force during the 1232
pendency of an appeal by the person of the plea of guilty, finding 1233
of guilt, or conviction that is the basis of the action taken 1234
under this division. 1235

The state board or superintendent shall take the action 1236
required by this division for a violation of division (B)(1), (2), 1237
(3), or (4) of section 2919.22 of the Revised Code; a violation of 1238
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 1239
2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 1240
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 1241

2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 1242
2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 1243
2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 1244
2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 1245
2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 1246
2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 1247
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 1248
2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 1249
of the Revised Code; a violation of section 2905.04 of the Revised 1250
Code as it existed prior to July 1, 1996; a violation of section 1251
2919.23 of the Revised Code that would have been a violation of 1252
section 2905.04 of the Revised Code as it existed prior to July 1, 1253
1996, had the violation been committed prior to that date; 1254
felonious sexual penetration in violation of former section 1255
2907.12 of the Revised Code; or a violation of an ordinance of a 1256
municipal corporation that is substantively comparable to an 1257
offense listed in this paragraph. 1258

(D) The state board may delegate to the superintendent of 1259
public instruction the authority to revoke a person's license or 1260
to deny issuance or renewal of a license to a person under 1261
division (C) or (F) of this section. 1262

(E)(1) If the plea of guilty, finding of guilt, or conviction 1263
that is the basis of the action taken under division (B)(2) or (C) 1264
of this section, or under the version of division (F) of section 1265
3319.311 of the Revised Code in effect prior to ~~the effective date~~ 1266
~~of this amendment~~ September 12, 2008, is overturned on appeal, 1267
upon exhaustion of the criminal appeal, the clerk of the court 1268
that overturned the plea, finding, or conviction or, if 1269
applicable, the clerk of the court that accepted an appeal from 1270
the court that overturned the plea, finding, or conviction, shall 1271
notify the state board that the plea, finding, or conviction has 1272
been overturned. Within thirty days after receiving the 1273

notification, the state board shall initiate proceedings to 1274
reconsider the revocation or denial of the person's license in 1275
accordance with division (E)(2) of this section. In addition, the 1276
person whose license was revoked or denied may file with the state 1277
board a petition for reconsideration of the revocation or denial 1278
along with appropriate court documents. 1279

(2) Upon receipt of a court notification or a petition and 1280
supporting court documents under division (E)(1) of this section, 1281
the state board, after offering the person an opportunity for an 1282
adjudication hearing under Chapter 119. of the Revised Code, shall 1283
determine whether the person committed the act in question in the 1284
prior criminal action against the person that is the basis of the 1285
revocation or denial and may continue the revocation or denial, 1286
may reinstate the person's license, with or without limits, or may 1287
grant the person a new license, with or without limits. The 1288
decision of the board shall be based on grounds for revoking, 1289
denying, suspending, or limiting a license adopted by rule under 1290
division (G) of this section and in accordance with the 1291
evidentiary standards the board employs for all other licensure 1292
hearings. The decision of the board under this division is subject 1293
to appeal under Chapter 119. of the Revised Code. 1294

(3) A person whose license is revoked or denied under 1295
division (C) of this section shall not apply for any license if 1296
the plea of guilty, finding of guilt, or conviction that is the 1297
basis of the revocation or denial, upon completion of the criminal 1298
appeal, either is upheld or is overturned but the state board 1299
continues the revocation or denial under division (E)(2) of this 1300
section and that continuation is upheld on final appeal. 1301

(F) The state board may take action under division (B) of 1302
this section, and the state board or the superintendent shall take 1303
the action required under division (C) of this section, on the 1304
basis of substantially comparable conduct occurring in a 1305

jurisdiction outside this state or occurring before a person 1306
applies for or receives any license. 1307

(G) The state board may adopt rules in accordance with 1308
Chapter 119. of the Revised Code to carry out this section and 1309
section 3319.311 of the Revised Code. 1310

Sec. 3319.311. (A)(1) The state board of education, or the 1311
superintendent of public instruction on behalf of the board, may 1312
investigate any information received about a person that 1313
reasonably appears to be a basis for action under section 3319.31 1314
of the Revised Code, including information received pursuant to 1315
section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, 1316
or 5153.176 of the Revised Code. Except as provided in division 1317
(A)(2) of this section, the board shall contract with the office 1318
of the Ohio attorney general to conduct any investigation of that 1319
nature. The board shall pay for the costs of the contract only 1320
from moneys in the state board of education licensure fund 1321
established under section 3319.51 of the Revised Code. Except as 1322
provided in division (A)(2) of this section, all information 1323
received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 1324
3328.19, 5126.253, or 5153.176 of the Revised Code, and all 1325
information obtained during an investigation is confidential and 1326
is not a public record under section 149.43 of the Revised Code. 1327
If an investigation is conducted under this division regarding 1328
information received about a person and no action is taken against 1329
the person under this section or section 3319.31 of the Revised 1330
Code within two years of the completion of the investigation, all 1331
records of the investigation shall be expunged. 1332

(2) In the case of a person about whom the board has learned 1333
of a plea of guilty to, finding of guilt by a jury or court of, or 1334
a conviction of an offense listed in division (C) of section 1335
3319.31 of the Revised Code, or substantially comparable conduct 1336

occurring in a jurisdiction outside this state, the board or the 1337
superintendent of public instruction need not conduct any further 1338
investigation and shall take the action required by division (C) 1339
or (F) of that section. Except as provided in division (G) of this 1340
section, all information obtained by the board or the 1341
superintendent of public instruction pertaining to the action is a 1342
public record under section 149.43 of the Revised Code. 1343

(B) The superintendent of public instruction shall review the 1344
results of each investigation of a person conducted under division 1345
(A)(1) of this section and shall determine, on behalf of the state 1346
board, whether the results warrant initiating action under 1347
division (B) of section 3319.31 of the Revised Code. The 1348
superintendent shall advise the board of such determination at a 1349
meeting of the board. Within fourteen days of the next meeting of 1350
the board, any member of the board may ask that the question of 1351
initiating action under section 3319.31 of the Revised Code be 1352
placed on the board's agenda for that next meeting. Prior to 1353
initiating that action against any person, the person's name and 1354
any other personally identifiable information shall remain 1355
confidential. 1356

(C) The board shall take no action against a person under 1357
division (B) of section 3319.31 of the Revised Code without 1358
providing the person with written notice of the charges and with 1359
an opportunity for a hearing in accordance with Chapter 119. of 1360
the Revised Code. 1361

(D) For purposes of an investigation under division (A)(1) of 1362
this section or a hearing under division (C) of this section or 1363
under division (E)(2) of section 3319.31 of the Revised Code, the 1364
board, or the superintendent on behalf of the board, may 1365
administer oaths, order the taking of depositions, issue 1366
subpoenas, and compel the attendance of witnesses and the 1367
production of books, accounts, papers, records, documents, and 1368

testimony. The issuance of subpoenas under this division may be by 1369
certified mail or personal delivery to the person. 1370

(E) The superintendent, on behalf of the board, may enter 1371
into a consent agreement with a person against whom action is 1372
being taken under division (B) of section 3319.31 of the Revised 1373
Code. The board may adopt rules governing the superintendent's 1374
action under this division. 1375

(F) No surrender of a license shall be effective until the 1376
board takes action to accept the surrender unless the surrender is 1377
pursuant to a consent agreement entered into under division (E) of 1378
this section. 1379

(G) The name of any person who is not required to report 1380
information under section 3314.40, 3319.313, 3326.24, 3328.19, 1381
5126.253, or 5153.176 of the Revised Code, but who in good faith 1382
provides information to the state board or superintendent of 1383
public instruction about alleged misconduct committed by a person 1384
who holds a license or has applied for issuance or renewal of a 1385
license, shall be confidential and shall not be released. Any such 1386
person shall be immune from any civil liability that otherwise 1387
might be incurred or imposed for injury, death, or loss to person 1388
or property as a result of the provision of that information. 1389

(H)(1) No person shall knowingly make a false report to the 1390
superintendent of public instruction or the state board of 1391
education alleging misconduct by an employee of a public or 1392
chartered nonpublic school or an employee of the operator of a 1393
community school established under Chapter 3314. or a 1394
college-preparatory boarding school established under Chapter 1395
3328. of the Revised Code. 1396

(2)(a) In any civil action brought against a person in which 1397
it is alleged and proved that the person violated division (H)(1) 1398
of this section, the court shall award the prevailing party 1399

reasonable attorney's fees and costs that the prevailing party 1400
incurred in the civil action or as a result of the false report 1401
that was the basis of the violation. 1402

(b) If a person is convicted of or pleads guilty to a 1403
violation of division (H)(1) of this section, if the subject of 1404
the false report that was the basis of the violation was charged 1405
with any violation of a law or ordinance as a result of the false 1406
report, and if the subject of the false report is found not to be 1407
guilty of the charges brought against the subject as a result of 1408
the false report or those charges are dismissed, the court that 1409
sentences the person for the violation of division (H)(1) of this 1410
section, as part of the sentence, shall order the person to pay 1411
restitution to the subject of the false report, in an amount equal 1412
to reasonable attorney's fees and costs that the subject of the 1413
false report incurred as a result of or in relation to the 1414
charges. 1415

Sec. 3328.01. As used in this chapter: 1416

(A) "Child with a disability," "IEP," and "school district of 1417
residence" have the same meanings as in section 3323.01 of the 1418
Revised Code. 1419

(B) "Eligible student" means a student who is entitled to 1420
attend school in a participating school district; is at risk of 1421
academic failure; is from a family whose income is below two 1422
hundred fifty per cent of the federal poverty guidelines, as 1423
defined in section 5101.46 of the Revised Code; and meets at least 1424
two of the following additional conditions: 1425

(1) The student has a record of repeated in-school 1426
disciplinary actions, suspensions, expulsions, or truancy. 1427

(2) The student has not attained at least a proficient score 1428
on the state achievement assessments in English language arts, 1429

reading, or mathematics prescribed under section 3301.0710 of the 1430
Revised Code, after those assessments have been administered to 1431
the student at least once, or the student has not attained at 1432
least a score designated by the board of trustees of the 1433
college-preparatory boarding school in which the student seeks 1434
enrollment under this chapter on an end-of-course examination in 1435
English language arts or mathematics prescribed under section 1436
3301.0712 of the Revised Code. 1437

(3) The student is a child with a disability. 1438

(4) The student has been referred for academic intervention 1439
services. 1440

(5) The student's parent is a single parent. 1441

(6) The student does not live with the student's custodial 1442
parent. 1443

(7) A member of the student's family has been imprisoned, as 1444
defined in section 1.05 of the Revised Code. 1445

(8) The student meets any additional criteria prescribed by 1446
agreement between the state board of education and the operator of 1447
the college-preparatory boarding school in which the student seeks 1448
enrollment under this chapter. 1449

(C) "Entitled to attend school" means entitled to attend 1450
school in a school district under section 3313.64 or 3313.65 of 1451
the Revised Code. 1452

(D) "Formula ADM" and "category one through six special 1453
education ADM" have the same meanings as in section 3306.02 of the 1454
Revised Code. 1455

(E) "Operator" means the operator of a college-preparatory 1456
boarding school selected under section 3328.11 of the Revised 1457
Code. 1458

(F) "Participating school district" means either of the 1459

following: 1460

(1) The school district in which a college-preparatory 1461
boarding school established under this chapter is located; 1462

(2) A school district other than one described in division 1463
(F)(1) of this section that, pursuant to procedures adopted by the 1464
state board of education under section 3328.04 of the Revised 1465
Code, agrees to be a participating school district so that 1466
eligible students entitled to attend school in that district may 1467
enroll in a college-preparatory boarding school established under 1468
this chapter. 1469

(G) "State education aid" has the same meaning as in section 1470
3317.02 of the Revised Code. 1471

Sec. 3328.02. Each college-preparatory boarding school 1472
established under this chapter is a public school and is part of 1473
the state's program of education, subject to a charter granted by 1474
the state board of education under section 3301.16 of the Revised 1475
Code. 1476

Sec. 3328.03. In accordance with Section 22 of Article II, 1477
Ohio Constitution, no agreement or contract entered into under 1478
this chapter shall create an obligation of state funds for a 1479
period longer than two years; however, the general assembly, every 1480
two years, may authorize renewal of any such obligation. 1481

Sec. 3328.04. The city, exempted village, or local school 1482
district in which a college-preparatory boarding school 1483
established under this chapter is located is a participating 1484
school district under this chapter. Any other city, exempted 1485
village, or local school district may agree to be a participating 1486
school district. The state board of education shall adopt 1487
procedures for districts to agree to be participating school 1488

districts. 1489

Sec. 3328.11. (A) In accordance with the procedures 1490
prescribed in division (B) of this section, the state board of 1491
education shall select a private nonprofit corporation that meets 1492
the following qualifications to operate each college-preparatory 1493
boarding school established under this chapter: 1494

(1) The corporation has experience operating a school or 1495
program similar to the schools authorized under this chapter. 1496

(2) The school or program described in division (A)(1) of 1497
this section has demonstrated to the satisfaction of the state 1498
board success in improving the academic performance of students. 1499

(3) The corporation has demonstrated to the satisfaction of 1500
the state board the following: 1501

(a) That the corporation has the capacity to finance and 1502
secure private funds for the development of the school authorized 1503
under this chapter; 1504

(b) That, unless the department of education has secured 1505
federal funds to support the school's initial operations, the 1506
corporation will apply for, and is reasonably expected to secure, 1507
federal funds for that purpose. 1508

(B)(1) Not later than sixty days after the effective date of 1509
this section, the state board shall issue a request for proposals 1510
from private nonprofit corporations interested in operating a 1511
college-preparatory boarding school established under this 1512
chapter. If the state board subsequently determines that the 1513
establishment of one or more additional college-preparatory 1514
boarding schools is advisable, the state board shall issue 1515
requests for proposals from private nonprofit corporations 1516
interested in operating those additional schools. 1517

In all cases, the state board shall select the school's operator from among the qualified responders within one hundred eighty days after the issuance of the request for proposals. If no qualified responder submits a proposal, the state board may issue another request for proposals. 1518
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(2) Each proposal submitted to the state board shall contain the following information: 1523
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(a) The proposed location of the college-preparatory boarding school, which may differ from any location recommended by the state board in the request for proposals; 1525
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(b) A plan for offering grade five or six in the school's initial year of operation and a plan for increasing the grade levels offered by the school in subsequent years; 1528
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(c) Any other information about the proposed educational program, facilities, or operations of the school considered necessary by the state board. 1531
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Sec. 3328.12. The state board of education shall enter into a contract with the operator of each college-preparatory boarding school established under this chapter. The contract shall stipulate the following: 1534
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(A) The school shall not be established if the operator fails to secure federal funds to support the school's initial operations, unless the department of education has secured federal funds for that purpose. 1538
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(B) The school may operate only if and to the extent the school holds a valid charter granted by the state board under section 3301.16 of the Revised Code. 1542
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(C) The operator shall finance and oversee the acquisition of a facility for the school. 1545
1546

(D) The operator shall operate the school in accordance with 1547

the terms of the proposal accepted by the state board under 1548
section 3328.11 of the Revised Code, including the plan for 1549
increasing the grade levels offered by the school. 1550

(E) The school shall comply with the provisions of this 1551
chapter. 1552

(F) The school shall comply with any other provisions of law 1553
specified in the contract, the charter granted by the state board, 1554
and the rules adopted by the state board under section 3328.50 of 1555
the Revised Code. 1556

(G) The school shall comply with the bylaws adopted by the 1557
operator under section 3328.13 of the Revised Code. 1558

(H) The school shall meet the academic goals and other 1559
performance standards specified in the contract. 1560

(I) The state board or the operator may terminate the 1561
contract in accordance with the procedures specified in the 1562
contract, which shall include at least a requirement that the 1563
party seeking termination give prior notice of the intent to 1564
terminate the contract and a requirement that the party receiving 1565
such notice be granted an opportunity to redress any grievances 1566
cited in the notice prior to the termination. 1567

(J) If the school closes for any reason, the school's board 1568
of trustees shall execute the closing in the manner specified in 1569
the contract. 1570

Sec. 3328.13. Each operator of a college-preparatory boarding 1571
school established under this chapter shall adopt bylaws for the 1572
oversight and operation of the school that are consistent with the 1573
provisions of this chapter, the rules adopted under section 1574
3328.50 of the Revised Code, the contract between the operator and 1575
the state board of education, and the charter granted to the 1576
school by the state board. The bylaws shall include procedures for 1577

the appointment of members of the school's board of trustees, 1578
whose terms of office shall be as prescribed in section 3328.15 of 1579
the Revised Code. The bylaws also shall include standards for the 1580
admission of students to the school and their dismissal from the 1581
school. The bylaws shall be subject to the approval of the state 1582
board. 1583

Sec. 3328.14. Each operator of a college-preparatory boarding 1584
school established under this chapter shall adopt a program of 1585
outreach to inform educators, administrators, boards of education, 1586
parents, and students in every city, local, and exempted village 1587
school district about the school and the procedures for admission 1588
to the school and for becoming a participating school district. 1589

Sec. 3328.15. (A) Each college-preparatory boarding school 1590
established under this chapter shall be governed by a board of 1591
trustees consisting of up to twenty-five members. Five of those 1592
members shall be appointed by the governor, with the advice and 1593
consent of the senate. The governor's appointments may be based on 1594
nonbinding recommendations made by the superintendent of public 1595
instruction. The remaining members shall be appointed pursuant to 1596
the bylaws adopted under section 3328.13 of the Revised Code. 1597

(B) The terms of office of the initial members shall be as 1598
follows: 1599

(1) Two members appointed by the governor shall serve for an 1600
initial term of three years. 1601

(2) Two members appointed by the governor shall serve for an 1602
initial term of two years. 1603

(3) One member appointed by the governor shall serve for an 1604
initial term of one year. 1605

(4) One-third of the members appointed pursuant to the 1606

bylaws, rounded down to the nearest whole number, shall serve for 1607
an initial term of three years. 1608

(5) One-third of the members appointed pursuant to the 1609
bylaws, rounded down to the nearest whole number, shall serve for 1610
an initial term of two years. 1611

(6) One-third of the members appointed pursuant to the 1612
bylaws, rounded down to the nearest whole number, shall serve for 1613
an initial term of one year. 1614

(7) Any remaining members appointed pursuant to the bylaws 1615
shall serve for an initial term of one year. 1616

Thereafter the terms of office of all members shall be for 1617
three years. 1618

The beginning date and ending date of terms of office shall 1619
be as prescribed in the bylaws adopted under section 3328.13 of 1620
the Revised Code. 1621

(C) Vacancies on the board shall be filled in the same manner 1622
as the initial appointments. A member appointed to an unexpired 1623
term shall serve for the remainder of that term and may be 1624
reappointed subject to division (D) of this section. 1625

(D) No member may serve for more than three consecutive 1626
three-year terms. 1627

(E) The officers of the board shall be selected by and from 1628
among the members of the board. 1629

(F) Compensation for the members of the board, if any, shall 1630
be as prescribed in the bylaws adopted under section 3328.13 of 1631
the Revised Code. 1632

Sec. 3328.17. Employees of a college-preparatory boarding 1633
school established under this chapter may organize and 1634
collectively bargain pursuant to Chapter 4117. of the Revised 1635

Code. Notwithstanding division (D)(1) of section 4117.06 of the 1636
Revised Code, a unit containing teaching and nonteaching employees 1637
employed under this section may be considered an appropriate unit. 1638

Sec. 3328.18. (A) As used in this section, "license" has the 1639
same meaning as in section 3319.31 of the Revised Code. 1640

(B) If a person who is employed by a college-preparatory 1641
boarding school established under this chapter or its operator is 1642
arrested, summoned, or indicted for an alleged violation of an 1643
offense listed in division (C) of section 3319.31 of the Revised 1644
Code, if the person holds a license, or an offense listed in 1645
division (B)(1) of section 3319.39 of the Revised Code, if the 1646
person does not hold a license, the chief administrator of the 1647
school in which that person works shall suspend that person from 1648
all duties that require the care, custody, or control of a child 1649
during the pendency of the criminal action against the person. If 1650
the person who is arrested, summoned, or indicted for an alleged 1651
violation of an offense listed in division (C) of section 3319.31 1652
or division (B)(1) of section 3319.39 of the Revised Code is the 1653
chief administrator of the school, the board of trustees of the 1654
school shall suspend the chief administrator from all duties that 1655
require the care, custody, or control of a child. 1656

(C) When a person who holds a license is suspended in 1657
accordance with this section, the chief administrator or board 1658
that imposed the suspension promptly shall report the person's 1659
suspension to the department of education. The report shall 1660
include the offense for which the person was arrested, summoned, 1661
or indicted. 1662

Sec. 3328.19. (A) As used in this section: 1663

(1) "Conduct unbecoming to the teaching profession" shall be 1664
as described in rules adopted by the state board of education. 1665

(2) "Intervention in lieu of conviction" means intervention in lieu of conviction under section 2951.041 of the Revised Code. 1666
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(3) "License" has the same meaning as in section 3319.31 of the Revised Code. 1668
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(4) "Pre-trial diversion program" means a pre-trial diversion program under section 2935.36 of the Revised Code or a similar diversion program under rules of a court. 1670
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(B) The chief administrator of each college-preparatory boarding school established under this chapter, or the president or chairperson of the board of trustees of the school if division (C) of this section applies, shall promptly submit to the superintendent of public instruction the information prescribed in division (D) of this section when any of the following conditions applies to a person employed to work in the school who holds a license issued by the state board of education: 1673
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(1) The chief administrator, or president or chairperson, knows that the employee has pleaded guilty to, has been found guilty by a jury or court of, has been convicted of, has been found to be eligible for intervention in lieu of conviction for, or has agreed to participate in a pre-trial diversion program for 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. 1681
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(2) The board of trustees of the school, or the operator, has initiated termination or nonrenewal proceedings against, has terminated, or has not renewed the contract of the employee because the board or operator has reasonably determined that the employee has committed an act that is 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. 1688
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(3) The employee has resigned under threat of termination or 1696

nonrenewal as described in division (B)(2) of this section. 1697

(4) The employee has resigned because of or in the course of an investigation by the board or operator regarding whether the employee has committed an act that is 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. 1698
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(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. 1704
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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. 1709
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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. 1716
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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. 1724
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(G) An individual who provides information to the 1727

superintendent of public instruction in accordance with this 1728
section in good faith shall be immune from any civil liability 1729
that otherwise might be incurred or imposed for injury, death, or 1730
loss to person or property as a result of the provision of that 1731
information. 1732

Sec. 3328.191. The board of trustees of each 1733
college-preparatory boarding school established under this chapter 1734
shall require that the reports of any investigation by the board 1735
or by the school's operator of an employee who works in the 1736
school, regarding whether the employee has committed an act or 1737
offense for which the chief administrator of the school or the 1738
president or chairperson of the board is required to make a report 1739
to the superintendent of public instruction under section 3328.19 1740
of the Revised Code, be kept in the employee's personnel file. If, 1741
after an investigation under division (A) of section 3319.311 of 1742
the Revised Code, the superintendent of public instruction 1743
determines that the results of that investigation do not warrant 1744
initiating action under section 3319.31 of the Revised Code, the 1745
board shall require the reports of the investigation to be moved 1746
from the employee's personnel file to a separate public file. 1747

Sec. 3328.192. Notwithstanding any provision to the contrary 1748
in Chapter 4117. of the Revised Code, the provisions of sections 1749
3328.19 and 3328.191 of the Revised Code prevail over any 1750
conflicting provisions of a collective bargaining agreement or 1751
contract for employment entered into on or after the effective 1752
date of this section. 1753

Sec. 3328.193. (A) As used in this section, "license" has the 1754
same meaning as in section 3319.31 of the Revised Code. 1755

(B) No employee of a college-preparatory boarding school 1756
established under this chapter or its operator shall do either of 1757

the following: 1758

(1) Knowingly make a false report to the chief administrator of the school, or the chief administrator's designee, alleging misconduct by another employee of the school or its operator; 1759
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(2) Knowingly cause the chief administrator, or the chief administrator's designee, to make a false report of the alleged misconduct to the superintendent of public instruction or the state board of education. 1762
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(C) Any employee of a college-preparatory boarding school established under this chapter or its operator who in good faith reports to the chief administrator of the school, or the chief administrator's designee, information about alleged misconduct committed by another employee of the school or operator 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 reporting of that information. 1766
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If the alleged misconduct involves a person who holds a license but the chief administrator is not required to submit a report to the superintendent of public instruction under section 3328.19 of the Revised Code and the chief administrator, or the chief administrator's designee, in good faith reports the alleged misconduct to the superintendent of public instruction or the state board, the chief administrator, or the chief administrator's designee, 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 reporting of that information. 1774
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(D)(1) In any civil action brought against a person in which it is alleged and proved that the person violated division (B) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report 1784
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that was the basis of the violation. 1789

(2) If a person is convicted of or pleads guilty to a 1790
violation of division (B) of this section, if the subject of the 1791
false report that was the basis of the violation was charged with 1792
any violation of a law or ordinance as a result of the false 1793
report, and if the subject of the false report is found not to be 1794
guilty of the charges brought against the subject as a result of 1795
the false report or those charges are dismissed, the court that 1796
sentences the person for the violation of division (B) of this 1797
section, as part of the sentence, shall order the person to pay 1798
restitution to the subject of the false report, in an amount equal 1799
to reasonable attorney's fees and costs that the subject of the 1800
false report incurred as a result of or in relation to the 1801
charges. 1802

Sec. 3328.20. (A) As used in this section: 1803

(1) "Designated official" means the chief administrator of a 1804
college-preparatory boarding school established under this 1805
chapter, or the chief administrator's designee. 1806

(2) "Essential school services" means services provided by a 1807
private company under contract with a college-preparatory boarding 1808
school established under this chapter that the chief administrator 1809
of the school has determined are necessary for the operation of 1810
the school and that would need to be provided by persons employed 1811
by the school or its operator if the services were not provided by 1812
the private company. 1813

(3) "License" has the same meaning as in section 3319.31 of 1814
the Revised Code. 1815

(B) This section applies to any person who is an employee of 1816
a private company under contract with a college-preparatory 1817
boarding school established under this chapter to provide 1818

essential school services and who will work in the school in a 1819
position that does not require a license issued by the state board 1820
of education, is not for the operation of a vehicle for pupil 1821
transportation, and that involves routine interaction with a child 1822
or regular responsibility for the care, custody, or control of a 1823
child. 1824

(C) No college-preparatory boarding school established under 1825
this chapter shall permit a person to whom this section applies to 1826
work in the school, unless one of the following applies to the 1827
person: 1828

(1) The person's employer presents proof of both of the 1829
following to the designated official: 1830

(a) That the person has been the subject of a criminal 1831
records check conducted in accordance with division (D) of this 1832
section within the five-year period immediately prior to the date 1833
on which the person will begin working in the school; 1834

(b) That the criminal records check indicates that the person 1835
has not been convicted of or pleaded guilty to any offense 1836
described in division (B)(1) of section 3319.39 of the Revised 1837
Code. 1838

(2) During any period of time in which the person will have 1839
routine interaction with a child or regular responsibility for the 1840
care, custody, or control of a child, the designated official has 1841
arranged for an employee of the school to be present in the same 1842
room with the child or, if outdoors, to be within a thirty-yard 1843
radius of the child or to have visual contact with the child. 1844

(D) Any private company that has been hired or seeks to be 1845
hired by a college-preparatory boarding school established under 1846
this chapter to provide essential school services may request the 1847
bureau of criminal identification and investigation to conduct a 1848
criminal records check of any of its employees for the purpose of 1849

complying with division (C)(1) of this section. Each request for a 1850
criminal records check under this division shall be made to the 1851
superintendent of the bureau in the manner prescribed in section 1852
3319.39 of the Revised Code. Upon receipt of a request, the bureau 1853
shall conduct the criminal records check in accordance with 1854
section 109.572 of the Revised Code as if the request had been 1855
made under section 3319.39 of the Revised Code. 1856

Notwithstanding division (H) of section 109.57 of the Revised 1857
Code, the private company may share the results of any criminal 1858
records check conducted under this division with the designated 1859
official for the purpose of complying with division (C)(1) of this 1860
section, but in no case shall the designated official release that 1861
information to any other person. 1862

Sec. 3328.21. (A) Any eligible student may apply for 1863
admission to a college-preparatory boarding school established 1864
under this chapter in a grade level offered by the school that is 1865
appropriate for the student and shall be admitted to the school in 1866
that grade level to the extent the student's admission is within 1867
the capacity of the school as established by the school's board of 1868
trustees, subject to division (B) of this section. If more 1869
eligible students apply for admission than the number of students 1870
permitted by the capacity established by the board of trustees, 1871
admission shall be by lot. 1872

(B) In the first year of operation, each school established 1873
under this chapter shall offer only grade five or six and shall 1874
not admit more than eighty students to the school. In each 1875
subsequent year of operation, the school may add additional grade 1876
levels as specified in the contract under section 3328.12 of the 1877
Revised Code, but at no time shall the school's total student 1878
population exceed four hundred students. 1879

Sec. 3328.22. The educational program of a 1880
college-preparatory boarding school established under this chapter 1881
shall include at least all of the following: 1882

(A) A remedial curriculum for students in grades lower than 1883
grade nine; 1884

(B) A college-preparatory curriculum for high school students 1885
that, at a minimum, shall comply with section 3313.603 of the 1886
Revised Code as that section applies to school districts; 1887

(C) Extracurricular activities, including athletic and 1888
cultural activities; 1889

(D) College admission counseling; 1890

(E) Health and mental health services; 1891

(F) Tutoring services; 1892

(G) Community services opportunities; 1893

(H) A residential student life program. 1894

Sec. 3328.23. (A) A college-preparatory boarding school 1895
established under this chapter and the school's operator shall 1896
comply with Chapter 3323. of the Revised Code as if the school 1897
were a school district. For each child with a disability enrolled 1898
in the school for whom an IEP has been developed, the school and 1899
its operator shall verify in the manner prescribed by the 1900
department of education that the school is providing the services 1901
required under the child's IEP. 1902

(B) The school district in which a child with a disability 1903
enrolled in the college-preparatory boarding school is entitled to 1904
attend school and the child's school district of residence, if 1905
different, are not obligated to provide the student with a free 1906
appropriate public education under Chapter 3323. of the Revised 1907
Code for as long as the child is enrolled in the 1908

college-preparatory boarding school. 1909

Sec. 3328.24. A college-preparatory boarding school 1910
established under this chapter, its operator, and its board of 1911
trustees shall comply with sections 3301.0710, 3301.0711, 1912
3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as 1913
if the school and the operator were a school district and the 1914
school's board of trustees were a district board of education. 1915

Sec. 3328.25. (A) The board of trustees of a 1916
college-preparatory boarding school established under this chapter 1917
shall grant a diploma to any student enrolled in the school to 1918
whom all of the following apply: 1919

(1) The student has successfully completed the school's high 1920
school curriculum or the IEP developed for the student by the 1921
school pursuant to section 3323.08 of the Revised Code or has 1922
qualified under division (D) or (F) of section 3313.603 of the 1923
Revised Code, provided that the school shall not require a student 1924
to remain in school for any specific number of semesters or other 1925
terms if the student completes the required curriculum early. 1926

(2) Subject to section 3313.614 of the Revised Code, the 1927
student has met the assessment requirements of division (A)(2)(a) 1928
or (b) of this section, as applicable. 1929

(a) If the student entered ninth grade prior to the date 1930
prescribed by rule of the state board of education under division 1931
(E)(2) of section 3301.0712 of the Revised Code, the student 1932
either: 1933

(i) Has attained at least the applicable scores designated 1934
under division (B)(1) of section 3301.0710 of the Revised Code on 1935
all the assessments prescribed by that division unless division 1936
(L) of section 3313.61 of the Revised Code applies to the student; 1937

(ii) Has satisfied the alternative conditions prescribed in 1938

section 3313.615 of the Revised Code. 1939

(b) If the person entered 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 student 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 student is excused from some portion of that assessment system pursuant to division (L) of section 3313.61 of the Revised Code. 1940
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(3) The student is not eligible to receive an honors diploma granted under division (B) of this section. 1949
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No diploma shall be granted under this division to anyone except as provided in this division. 1951
1952

(B) In lieu of a diploma granted under division (A) of this section, the board of trustees shall grant an honors diploma, in the same manner that boards of education of school districts grant honors diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in the school who accomplishes all of the following: 1953
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(1) Successfully completes the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code; 1959
1960
1961

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable. 1962
1963
1964

(a) If the student entered ninth grade prior to the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the student either: 1965
1966
1967

(i) Has attained at least the applicable scores designated 1968

under division (B)(1) of section 3301.0710 of the Revised Code on 1969
all the assessments prescribed under that division; 1970

(ii) Has satisfied the alternative conditions prescribed in 1971
section 3313.615 of the Revised Code. 1972

(b) If the person entered ninth grade on or after the date 1973
prescribed by rule of the state board under division (E)(2) of 1974
section 3301.0712 of the Revised Code, the student has attained on 1975
the entire assessment system prescribed under division (B)(2) of 1976
section 3301.0710 of the Revised Code at least the required 1977
passing composite score, designated under division (C)(1) of 1978
section 3301.0712 of the Revised Code. 1979

(3) Has met the additional criteria for granting an honors 1980
diploma prescribed by the state board under division (B) of 1981
section 3313.61 of the Revised Code for the granting of honors 1982
diplomas by school districts. 1983

An honors diploma shall not be granted to a student who is 1984
subject to the Ohio core curriculum prescribed in division (C) of 1985
section 3313.603 of the Revised Code but elects the option of 1986
division (D) or (F) of that section. No honors diploma shall be 1987
granted to anyone failing to comply with this division and not 1988
more than one honors diploma shall be granted to any student under 1989
this division. 1990

(C) A diploma or honors diploma awarded under this section 1991
shall be signed by the presiding officer of the board of trustees. 1992
Each diploma shall bear the date of its issue and be in such form 1993
as the board of trustees prescribes. 1994

(D) Upon granting a diploma to a student under this section, 1995
the presiding officer of the board of trustees shall provide 1996
notice of receipt of the diploma to the board of education of the 1997
city, exempted village, or local school district where the student 1998
is entitled to attend school when not residing at the 1999

college-preparatory boarding school. The notice shall indicate the 2000
type of diploma granted. 2001

Sec. 3328.26. (A) The department of education shall issue an 2002
annual report card for each college-preparatory boarding school 2003
established under this chapter that includes all information 2004
applicable to school buildings under section 3302.03 of the 2005
Revised Code. 2006

(B) For each student enrolled in the school, the department 2007
shall combine data regarding the academic performance of that 2008
student with comparable data from the school district in which the 2009
student is entitled to attend school for the purpose of 2010
calculating the performance of the district as a whole on the 2011
report card issued for the district under section 3302.03 of the 2012
Revised Code. 2013

(C) Each college-preparatory boarding school and its operator 2014
shall comply with sections 3302.04 and 3302.041 of the Revised 2015
Code, except that any action required to be taken by a school 2016
district pursuant to those sections shall be taken by the school. 2017

Sec. 3328.31. Each college-preparatory boarding school 2018
established under this chapter shall report to the department of 2019
education, in the form and manner prescribed by the department, 2020
the following information: 2021

(A) The total number of students enrolled in the school; 2022

(B) The number of students enrolled in the school who are 2023
receiving special education and related services pursuant to an 2024
IEP; 2025

(C) The city, exempted village, or local school district in 2026
which each student reported under division (A) of this section is 2027
entitled to attend school; 2028

(D) Any additional information the department determines 2029
necessary to make payments to the school under this chapter. 2030

Sec. 3328.32. The city, exempted village, or local school 2031
district in which each child enrolled in a college-preparatory 2032
boarding school established under this chapter is entitled to 2033
attend school shall count that child in the district's average 2034
daily membership and in the district's category one through six 2035
special education ADM, as appropriate, as reported under divisions 2036
(A) and (B)(5) to (10) of section 3317.03 of the Revised Code. 2037

The department of education shall count that child in the 2038
district's formula ADM. 2039

Sec. 3328.33. For each child enrolled in a 2040
college-preparatory boarding school, as reported under section 2041
3328.31 of the Revised Code, the department of education shall 2042
deduct from the state education aid and, if necessary, from the 2043
payment under sections 321.24 and 323.156 of the Revised Code, for 2044
the city, exempted village, or local school district in which the 2045
child is entitled to attend school an amount equal to eighty-five 2046
per cent of the operating expenditure per pupil of that district. 2047

As used in this section, a district's "operating expenditure 2048
per pupil" is the total amount of state payments and other 2049
nonfederal revenue spent by the district for operating expenses 2050
during the previous fiscal year, divided by the district's formula 2051
ADM for the previous fiscal year. 2052

Sec. 3328.34. (A) For each child enrolled in a 2053
college-preparatory boarding school, as reported under section 2054
3328.31 of the Revised Code, the department of education shall pay 2055
to the school the sum of the amount deducted from a participating 2056
school district's account for that child under section 3328.33 of 2057
the Revised Code plus the per-pupil boarding amount specified in 2058

division (B) of this section. 2059

(B) For the first fiscal year in which a college-preparatory 2060
boarding school may be established under this chapter, the 2061
"per-pupil boarding amount" is twenty-five thousand dollars. For 2062
each fiscal year thereafter, that amount shall be adjusted by the 2063
rate of inflation, as measured by the consumer price index (all 2064
urban consumers, all items) prepared by the bureau of labor 2065
statistics of the United States department of labor, for the 2066
previous twelve-month period. 2067

(C)(1) Notwithstanding division (A) of this section, if, in 2068
any fiscal year, the operator of a college-preparatory boarding 2069
school receives federal funds for the purpose of supporting the 2070
school's operations, the amount of those federal funds shall be 2071
deducted from the total per-pupil boarding amount for all enrolled 2072
students paid by the department to the school for that fiscal 2073
year. Any portion of the total per-pupil boarding amount for all 2074
enrolled students remaining after the deduction of the federal 2075
funds shall be paid by the department to the school from state 2076
funds appropriated to the department. 2077

(2) Notwithstanding division (A) of this section, if, in any 2078
fiscal year, the department receives federal funds for the purpose 2079
of supporting the operations of a college-preparatory boarding 2080
school, the department shall use those federal funds first to pay 2081
the school the total per-pupil boarding amount for all enrolled 2082
students for that fiscal year. Any portion of the total per-pupil 2083
boarding amount for all enrolled students remaining after the use 2084
of the federal funds shall be paid by the department to the school 2085
from state funds appropriated to the department. 2086

(3) If any federal funds are used for the purpose prescribed 2087
in division (C)(1) or (2) of this section, the department shall 2088
comply with all requirements upon which the acceptance of the 2089

federal funds is conditioned, including any requirements set forth 2090
in the funding application submitted by the operator or the 2091
department and, to the extent sufficient funds are appropriated by 2092
the general assembly, any requirements regarding maintenance of 2093
effort in expenditures. 2094

Sec. 3328.35. To the extent permitted by federal law, the 2095
department of education shall include college-preparatory boarding 2096
schools established under this chapter in its annual allocation of 2097
federal moneys under Title I of the "Elementary and Secondary 2098
Education Act of 1965," 20 U.S.C. 6301, et seq. The department may 2099
apply for any other federal moneys that may be used to support the 2100
operations of college-preparatory boarding schools established 2101
under this chapter. 2102

Sec. 3328.36. A college-preparatory boarding school 2103
established under this chapter shall be considered a school 2104
district and its board of trustees, on behalf of the school's 2105
operator, shall be considered a board of education for the purpose 2106
of applying to any state or federal agency for grants that a 2107
school district or public school may receive under federal or 2108
state law or any appropriations act of the general assembly. The 2109
college-preparatory boarding school and its operator may apply to 2110
any private entity for funds. 2111

Sec. 3328.41. Each participating school district shall 2112
provide transportation on a weekly basis for each student enrolled 2113
in a college-preparatory boarding school established under this 2114
chapter who is entitled to attend school in the district to and 2115
from that college-preparatory boarding school. 2116

Sec. 3328.45. (A) If the state board of education determines 2117
that a college-preparatory boarding school established under this 2118

chapter is not in compliance with any provision of this chapter or 2119
the terms of the contract entered into under section 3328.12 of 2120
the Revised Code, or that the school has failed to meet the 2121
academic goals or performance standards specified in that 2122
contract, the state board may initiate the termination procedures 2123
specified in the contract. No termination shall take effect prior 2124
to the end of a school year. Upon the effective date of a 2125
termination, the school shall close. 2126

(B) If a college-preparatory boarding school is required to 2127
close under division (A) of this section or closes for any other 2128
reason, the school's board of trustees shall execute the closing 2129
as provided in the contract under section 3328.12 of the Revised 2130
Code. 2131

Sec. 3328.50. The state board of education shall adopt rules 2132
in accordance with Chapter 119. of the Revised Code prescribing 2133
procedures necessary for the implementation of this chapter. 2134

Sec. 3328.99. (A) Whoever violates division (F) of section 2135
3328.19 of the Revised Code shall be punished as follows: 2136

(1) Except as otherwise provided in division (A)(2) of this 2137
section, the person is guilty of a misdemeanor of the fourth 2138
degree. 2139

(2) The person is guilty of a misdemeanor of the first degree 2140
if both of the following conditions apply: 2141

(a) The employee who is the subject of the report that the 2142
person fails to submit was required to be reported for the 2143
commission or alleged commission of an act or offense involving 2144
the infliction on a child of any physical or mental wound, injury, 2145
disability, or condition of a nature that constitutes abuse or 2146
neglect of the child. 2147

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

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

Sec. 4117.01. As used in this chapter:

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

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; a college-preparatory boarding school established under Chapter 3328. of the Revised Code or its operator; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a

public employer and a private employer and over whom the national	2179
labor relations board has declined jurisdiction on the basis that	2180
the involved employees are employees of a public employer, except:	2181
(1) Persons holding elective office;	2182
(2) Employees of the general assembly and employees of any	2183
other legislative body of the public employer whose principal	2184
duties are directly related to the legislative functions of the	2185
body;	2186
(3) Employees on the staff of the governor or the chief	2187
executive of the public employer whose principal duties are	2188
directly related to the performance of the executive functions of	2189
the governor or the chief executive;	2190
(4) Persons who are members of the Ohio organized militia,	2191
while training or performing duty under section 5919.29 or 5923.12	2192
of the Revised Code;	2193
(5) Employees of the state employment relations board,	2194
including those employees of the state employment relations board	2195
utilized by the state personnel board of review in the exercise of	2196
the powers and the performance of the duties and functions of the	2197
state personnel board of review;	2198
(6) Confidential employees;	2199
(7) Management level employees;	2200
(8) Employees and officers of the courts, assistants to the	2201
attorney general, assistant prosecuting attorneys, and employees	2202
of the clerks of courts who perform a judicial function;	2203
(9) Employees of a public official who act in a fiduciary	2204
capacity, appointed pursuant to section 124.11 of the Revised	2205
Code;	2206
(10) Supervisors;	2207
(11) Students whose primary purpose is educational training,	2208

including graduate assistants or associates, residents, interns,	2209
or other students working as part-time public employees less than	2210
fifty per cent of the normal year in the employee's bargaining	2211
unit;	2212
(12) Employees of county boards of election;	2213
(13) Seasonal and casual employees as determined by the state	2214
employment relations board;	2215
(14) Part-time faculty members of an institution of higher	2216
education;	2217
(15) Participants in a work activity, developmental activity,	2218
or alternative work activity under sections 5107.40 to 5107.69 of	2219
the Revised Code who perform a service for a public employer that	2220
the public employer needs but is not performed by an employee of	2221
the public employer if the participant is not engaged in paid	2222
employment or subsidized employment pursuant to the activity;	2223
(16) Employees included in the career professional service of	2224
the department of transportation under section 5501.20 of the	2225
Revised Code;	2226
(17) Employees of community-based correctional facilities and	2227
district community-based correctional facilities created under	2228
sections 2301.51 to 2301.58 of the Revised Code who are not	2229
subject to a collective bargaining agreement on June 1, 2005+.	2230
(D) "Employee organization" means any labor or bona fide	2231
organization in which public employees participate and that exists	2232
for the purpose, in whole or in part, of dealing with public	2233
employers concerning grievances, labor disputes, wages, hours,	2234
terms, and other conditions of employment.	2235
(E) "Exclusive representative" means the employee	2236
organization certified or recognized as an exclusive	2237
representative under section 4117.05 of the Revised Code.	2238

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

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

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. ~~Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining.~~ The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

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

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

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

(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; 2303
stoppage of work; slowdown, or abstinence in whole or in part from 2304
the full, faithful, and proper performance of the duties of 2305
employment for the purpose of inducing, influencing, or coercing a 2306
change in wages, hours, terms, and other conditions of employment. 2307
"Unauthorized strike" includes any such action, absence, stoppage, 2308
slowdown, or abstinence when done partially or intermittently, 2309
whether during or after the expiration of the term or extended 2310
term of a collective bargaining agreement or during or after the 2311
pendency of the settlement procedures set forth in section 4117.14 2312
of the Revised Code. 2313

(J) "Professional employee" means any employee engaged in 2314
work that is predominantly intellectual, involving the consistent 2315
exercise of discretion and judgment in its performance and 2316
requiring knowledge of an advanced type in a field of science or 2317
learning customarily acquired by a prolonged course in an 2318
institution of higher learning or a hospital, as distinguished 2319
from a general academic education or from an apprenticeship; or an 2320
employee who has completed the courses of specialized intellectual 2321
instruction and is performing related work under the supervision 2322
of a professional person to become qualified as a professional 2323
employee. 2324

(K) "Confidential employee" means any employee who works in 2325
the personnel offices of a public employer and deals with 2326
information to be used by the public employer in collective 2327
bargaining; or any employee who works in a close continuing 2328
relationship with public officers or representatives directly 2329
participating in collective bargaining on behalf of the employer. 2330

(L) "Management level employee" means an individual who 2331
formulates policy on behalf of the public employer, who 2332
responsibly directs the implementation of policy, or who may 2333
reasonably be required on behalf of the public employer to assist 2334

in the preparation for the conduct of collective negotiations, 2335
administer collectively negotiated agreements, or have a major 2336
role in personnel administration. Assistant superintendents, 2337
principals, and assistant principals whose employment is governed 2338
by section 3319.02 of the Revised Code are management level 2339
employees. With respect to members of a faculty of a state 2340
institution of higher education, no person is a management level 2341
employee because of the person's involvement in the formulation or 2342
implementation of academic or institution policy. 2343

(M) "Wages" means hourly rates of pay, salaries, or other 2344
forms of compensation for services rendered. 2345

(N) "Member of a police department" means a person who is in 2346
the employ of a police department of a municipal corporation as a 2347
full-time regular police officer as the result of an appointment 2348
from a duly established civil service eligibility list or under 2349
section 737.15 or 737.16 of the Revised Code, a full-time deputy 2350
sheriff appointed under section 311.04 of the Revised Code, a 2351
township constable appointed under section 509.01 of the Revised 2352
Code, or a member of a township police district police department 2353
appointed under section 505.49 of the Revised Code. 2354

(O) "Members of the state highway patrol" means highway 2355
patrol troopers and radio operators appointed under section 2356
5503.01 of the Revised Code. 2357

(P) "Member of a fire department" means a person who is in 2358
the employ of a fire department of a municipal corporation or a 2359
township as a fire cadet, full-time regular firefighter, or 2360
promoted rank as the result of an appointment from a duly 2361
established civil service eligibility list or under section 2362
505.38, 709.012, or 737.22 of the Revised Code. 2363

(Q) "Day" means calendar day. 2364

Section 2. That existing sections 109.57, 3313.61, 3317.03, 2365
3319.31, 3319.311, and 4117.01 of the Revised Code are hereby 2366
repealed. 2367

Section 3. Section 3317.03 of the Revised Code is presented 2368
in this act as a composite of the section as amended by both Am. 2369
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. The 2370
General Assembly, applying the principle stated in division (B) of 2371
section 1.52 of the Revised Code that amendments are to be 2372
harmonized if reasonably capable of simultaneous operation, finds 2373
that the composite is the resulting version of the section in 2374
effect prior to the effective date of the section as presented in 2375
this act. 2376