

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 281**

**Representative Ruhl**

**Cosponsors: Representatives Grossman, Hackett**

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**A B I L L**

To amend sections 3313.751, 3314.03, 3326.11, and 1  
3328.24 of the Revised Code to revise the law 2  
regarding tobacco and nicotine use in public 3  
schools and at public school-sponsored functions, 4  
and to amend the version of section 3326.11 of the 5  
Revised Code that is scheduled to take effect July 6  
1, 2014, to continue the provisions of this act on 7  
or after that effective date. 8

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

**Section 1.** That sections 3313.751, 3314.03, 3326.11, and 9  
3328.24 of the Revised Code be amended to read as follows: 10

**Sec. 3313.751.** (A) As used in this section: 11

(1) "School district" means a city, local, exempted village, 12  
or joint vocational school district. 13

(2) "Smoke" means to burn any substance containing tobacco, 14  
including a lighted cigarette, cigar, or pipe, or to burn a clove 15  
cigarette. 16

(3) "Use tobacco" means to chew or maintain any substance 17  
containing tobacco or any substance derived from tobacco, 18

including smokeless tobacco, in the mouth to derive the effects of tobacco. 19  
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(4) "Use nicotine" means to maintain any substance containing nicotine or a similar substance intended for human consumption or consume nicotine or similar substance, whether by means of smoking, heating, chewing, absorbing, dissolving, or ingesting by any other means. 21  
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(B)(1) No ~~pupil~~ person shall smoke or use tobacco or possess any substance containing tobacco in any area under the control of a school district or an educational service center, including any outdoor facilities, or at any activity supervised by any school operated by a school district or an educational service center. 26  
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(2) No person shall use nicotine or possess any substance containing nicotine in any area under the control of a school district or an educational service center, including any outdoor facilities, or at any activity supervised by any school operated by a school district or an educational service center. 31  
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(C) The board of education of each school district and the governing board of each educational service center shall adopt a policy providing for the enforcement of division (B) of this section ~~and~~ against all persons. 36  
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(D) The board of education of each school district and the governing board of each educational service center shall adopt a policy establishing disciplinary measures for a violation of students who violate division (B) of this section. 40  
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**Sec. 3314.03.** A copy of every contract entered into under this section shall be filed with the superintendent of public instruction. The department of education shall make available on its web site a copy of every approved, executed contract filed with the superintendent under this section. 44  
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(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

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

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

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

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

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

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of

state. The contract shall require financial records of the school 79  
to be maintained in the same manner as are financial records of 80  
school districts, pursuant to rules of the auditor of state. 81  
Audits shall be conducted in accordance with section 117.10 of the 82  
Revised Code. 83

(9) The facilities to be used and their locations; 84

(10) Qualifications of teachers, including a requirement that 85  
the school's classroom teachers be licensed in accordance with 86  
sections 3319.22 to 3319.31 of the Revised Code, except that a 87  
community school may engage noncertificated persons to teach up to 88  
twelve hours per week pursuant to section 3319.301 of the Revised 89  
Code. 90

(11) That the school will comply with the following 91  
requirements: 92

(a) The school will provide learning opportunities to a 93  
minimum of twenty-five students for a minimum of nine hundred 94  
twenty hours per school year. 95

(b) The governing authority will purchase liability 96  
insurance, or otherwise provide for the potential liability of the 97  
school. 98

(c) The school will be nonsectarian in its programs, 99  
admission policies, employment practices, and all other 100  
operations, and will not be operated by a sectarian school or 101  
religious institution. 102

(d) The school will comply with sections 9.90, 9.91, 109.65, 103  
121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 104  
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.539, 105  
3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 106  
3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 107  
3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 108  
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.751, 3313.80, 109

3313.814, 3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 110  
3319.321, 3319.39, 3319.391, 3319.41, 3321.01, 3321.041, 3321.13, 111  
3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 112  
4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 113  
3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it 114  
were a school district and will comply with section 3301.0714 of 115  
the Revised Code in the manner specified in section 3314.17 of the 116  
Revised Code. 117

(e) The school shall comply with Chapter 102. and section 118  
2921.42 of the Revised Code. 119

(f) The school will comply with sections 3313.61, 3313.611, 120  
and 3313.614 of the Revised Code, except that for students who 121  
enter ninth grade for the first time before July 1, 2010, the 122  
requirement in sections 3313.61 and 3313.611 of the Revised Code 123  
that a person must successfully complete the curriculum in any 124  
high school prior to receiving a high school diploma may be met by 125  
completing the curriculum adopted by the governing authority of 126  
the community school rather than the curriculum specified in Title 127  
XXXIII of the Revised Code or any rules of the state board of 128  
education. Beginning with students who enter ninth grade for the 129  
first time on or after July 1, 2010, the requirement in sections 130  
3313.61 and 3313.611 of the Revised Code that a person must 131  
successfully complete the curriculum of a high school prior to 132  
receiving a high school diploma shall be met by completing the 133  
Ohio core curriculum prescribed in division (C) of section 134  
3313.603 of the Revised Code, unless the person qualifies under 135  
division (D) or (F) of that section. Each school shall comply with 136  
the plan for awarding high school credit based on demonstration of 137  
subject area competency, adopted by the state board of education 138  
under division (J) of section 3313.603 of the Revised Code. 139

(g) The school governing authority will submit within four 140  
months after the end of each school year a report of its 141

activities and progress in meeting the goals and standards of 142  
divisions (A)(3) and (4) of this section and its financial status 143  
to the sponsor and the parents of all students enrolled in the 144  
school. 145

(h) The school, unless it is an internet- or computer-based 146  
community school, will comply with section 3313.801 of the Revised 147  
Code as if it were a school district. 148

(i) If the school is the recipient of moneys from a grant 149  
awarded under the federal race to the top program, Division (A), 150  
Title XIV, Sections 14005 and 14006 of the "American Recovery and 151  
Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the 152  
school will pay teachers based upon performance in accordance with 153  
section 3317.141 and will comply with section 3319.111 of the 154  
Revised Code as if it were a school district. 155

(12) Arrangements for providing health and other benefits to 156  
employees; 157

(13) The length of the contract, which shall begin at the 158  
beginning of an academic year. No contract shall exceed five years 159  
unless such contract has been renewed pursuant to division (E) of 160  
this section. 161

(14) The governing authority of the school, which shall be 162  
responsible for carrying out the provisions of the contract; 163

(15) A financial plan detailing an estimated school budget 164  
for each year of the period of the contract and specifying the 165  
total estimated per pupil expenditure amount for each such year. 166

(16) Requirements and procedures regarding the disposition of 167  
employees of the school in the event the contract is terminated or 168  
not renewed pursuant to section 3314.07 of the Revised Code; 169

(17) Whether the school is to be created by converting all or 170  
part of an existing public school or educational service center 171

building or is to be a new start-up school, and if it is a 172  
converted public school or service center building, specification 173  
of any duties or responsibilities of an employer that the board of 174  
education or service center governing board that operated the 175  
school or building before conversion is delegating to the 176  
governing authority of the community school with respect to all or 177  
any specified group of employees provided the delegation is not 178  
prohibited by a collective bargaining agreement applicable to such 179  
employees; 180

(18) Provisions establishing procedures for resolving 181  
disputes or differences of opinion between the sponsor and the 182  
governing authority of the community school; 183

(19) A provision requiring the governing authority to adopt a 184  
policy regarding the admission of students who reside outside the 185  
district in which the school is located. That policy shall comply 186  
with the admissions procedures specified in sections 3314.06 and 187  
3314.061 of the Revised Code and, at the sole discretion of the 188  
authority, shall do one of the following: 189

(a) Prohibit the enrollment of students who reside outside 190  
the district in which the school is located; 191

(b) Permit the enrollment of students who reside in districts 192  
adjacent to the district in which the school is located; 193

(c) Permit the enrollment of students who reside in any other 194  
district in the state. 195

(20) A provision recognizing the authority of the department 196  
of education to take over the sponsorship of the school in 197  
accordance with the provisions of division (C) of section 3314.015 198  
of the Revised Code; 199

(21) A provision recognizing the sponsor's authority to 200  
assume the operation of a school under the conditions specified in 201  
division (B) of section 3314.073 of the Revised Code; 202

(22) A provision recognizing both of the following:	203
(a) The authority of public health and safety officials to	204
inspect the facilities of the school and to order the facilities	205
closed if those officials find that the facilities are not in	206
compliance with health and safety laws and regulations;	207
(b) The authority of the department of education as the	208
community school oversight body to suspend the operation of the	209
school under section 3314.072 of the Revised Code if the	210
department has evidence of conditions or violations of law at the	211
school that pose an imminent danger to the health and safety of	212
the school's students and employees and the sponsor refuses to	213
take such action.	214
(23) A description of the learning opportunities that will be	215
offered to students including both classroom-based and	216
non-classroom-based learning opportunities that is in compliance	217
with criteria for student participation established by the	218
department under division (H)(2) of section 3314.08 of the Revised	219
Code;	220
(24) The school will comply with sections 3302.04 and	221
3302.041 of the Revised Code, except that any action required to	222
be taken by a school district pursuant to those sections shall be	223
taken by the sponsor of the school. However, the sponsor shall not	224
be required to take any action described in division (F) of	225
section 3302.04 of the Revised Code.	226
(25) Beginning in the 2006-2007 school year, the school will	227
open for operation not later than the thirtieth day of September	228
each school year, unless the mission of the school as specified	229
under division (A)(2) of this section is solely to serve dropouts.	230
In its initial year of operation, if the school fails to open by	231
the thirtieth day of September, or within one year after the	232
adoption of the contract pursuant to division (D) of section	233



3314.02 of the Revised Code if the mission of the school is solely 234  
to serve dropouts, the contract shall be void. 235

(B) The community school shall also submit to the sponsor a 236  
comprehensive plan for the school. The plan shall specify the 237  
following: 238

(1) The process by which the governing authority of the 239  
school will be selected in the future; 240

(2) The management and administration of the school; 241

(3) If the community school is a currently existing public 242  
school or educational service center building, alternative 243  
arrangements for current public school students who choose not to 244  
attend the converted school and for teachers who choose not to 245  
teach in the school or building after conversion; 246

(4) The instructional program and educational philosophy of 247  
the school; 248

(5) Internal financial controls. 249

(C) A contract entered into under section 3314.02 of the 250  
Revised Code between a sponsor and the governing authority of a 251  
community school may provide for the community school governing 252  
authority to make payments to the sponsor, which is hereby 253  
authorized to receive such payments as set forth in the contract 254  
between the governing authority and the sponsor. The total amount 255  
of such payments for oversight and monitoring of the school shall 256  
not exceed three per cent of the total amount of payments for 257  
operating expenses that the school receives from the state. 258

(D) The contract shall specify the duties of the sponsor 259  
which shall be in accordance with the written agreement entered 260  
into with the department of education under division (B) of 261  
section 3314.015 of the Revised Code and shall include the 262  
following: 263

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	264 265
(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;	266 267 268
(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;	269 270 271 272
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	273 274 275
(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;	276 277 278 279 280 281 282
(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.	283 284 285
(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of	286 287 288 289 290 291 292 293 294

sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 295

(F) If a community school fails to open for operation within 296  
one year after the contract entered into under this section is 297  
adopted pursuant to division (D) of section 3314.02 of the Revised 298  
Code or permanently closes prior to the expiration of the 299  
contract, the contract shall be void and the school shall not 300  
enter into a contract with any other sponsor. A school shall not 301  
be considered permanently closed because the operations of the 302  
school have been suspended pursuant to section 3314.072 of the 303  
Revised Code. 304

**Sec. 3326.11.** Each science, technology, engineering, and 305  
mathematics school established under this chapter and its 306  
governing body shall comply with sections 9.90, 9.91, 109.65, 307  
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 308  
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 309  
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 310  
3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 311  
3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 312  
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 313  
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 314  
3313.716, 3313.718, 3313.719, 3313.751, 3313.80, 3313.801, 315  
3313.814, 3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3319.073, 316  
3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 317  
3319.45, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 318  
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and 319  
Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 320  
4112., 4123., 4141., and 4167. of the Revised Code as if it were a 321  
school district. 322

**Sec. 3328.24.** A college-preparatory boarding school 323  
established under this chapter and its board of trustees shall 324  
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 325

3301.0714, 3313.6411, 3313.751, 3319.39, and 3319.391 of the 326  
Revised Code as if the school were a school district and the 327  
school's board of trustees were a district board of education. 328

**Section 2.** That existing sections 3313.751, 3314.03, 3326.11, 329  
and 3328.24 of the Revised Code are hereby repealed. 330

**Section 3.** That the version of section 3326.11 of the Revised 331  
Code that is scheduled to take effect on July 1, 2014, be amended 332  
to read as follows: 333

**Sec. 3326.11.** Each science, technology, engineering, and 334  
mathematics school established under this chapter and its 335  
governing body shall comply with sections 9.90, 9.91, 109.65, 336  
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 337  
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 338  
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 339  
3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 340  
3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 341  
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 342  
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 343  
3313.716, 3313.718, 3313.719, 3313.751, 3313.80, 3313.801, 344  
3313.814, 3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.21, 345  
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 346  
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 347  
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 348  
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 349  
4123., 4141., and 4167. of the Revised Code as if it were a school 350  
district. 351

**Section 4.** That the existing version of section 3326.11 of 352  
the Revised Code that is scheduled to take effect on July 1, 2014, 353  
is hereby repealed. 354

Section 5. Sections 3 and 4 of this act shall take effect on 355  
July 1, 2014. 356