

As Introduced

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H. B. No. 473

Representative Hayes

**Cosponsors: Representatives Derickson, Hottinger, Terhar, Becker, Young,
Buchy, Henne, Lynch, Smith, McClain, Amstutz**

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A B I L L

To amend sections 3314.03, 3326.11, and 3328.24 and 1
to enact section 3320.01 of the Revised Code to 2
require school districts, community schools, STEM 3
schools, and college-preparatory boarding schools 4
to establish a limited public forum for student 5
expression. 6

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

Section 1. That sections 3314.03, 3326.11, and 3328.24 be 7
amended and section 3320.01 of the Revised Code be enacted to read 8
as follows: 9

Sec. 3314.03. A copy of every contract entered into under 10
this section shall be filed with the superintendent of public 11
instruction. The department of education shall make available on 12
its web site a copy of every approved, executed contract filed 13
with the superintendent under this section. 14

(A) Each contract entered into between a sponsor and the 15
governing authority of a community school shall specify the 16
following: 17

(1) That the school shall be established as either of the 18

following:	19
(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;	20 21
(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.	22 23
(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;	24 25 26 27
(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;	28 29 30
(4) Performance standards by which the success of the school will be evaluated by the sponsor;	31 32
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	33 34
(6)(a) Dismissal procedures;	35
(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.	36 37 38 39 40 41
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	42 43
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the	44 45 46 47 48

Revised Code.	49
(9) The facilities to be used and their locations;	50
(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code.	51 52 53 54 55 56
(11) That the school will comply with the following requirements:	57 58
(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.	59 60 61
(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.	62 63 64
(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.	65 66 67 68
(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.539, 3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.814, 3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 3319.41, <u>3320.01</u> , 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112.,	69 70 71 72 73 74 75 76 77 78 79

4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code. 80
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(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code. 84
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(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that for students who enter ninth grade for the first time before July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education. Beginning with students who enter ninth grade for the first time on or after July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, adopted by the state board of education under division (J) of section 3313.603 of the Revised Code. 86
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(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school. 106
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(h) The school, unless it is an internet- or computer-based 112
community school, will comply with section 3313.801 of the Revised 113
Code as if it were a school district. 114

(i) If the school is the recipient of moneys from a grant 115
awarded under the federal race to the top program, Division (A), 116
Title XIV, Sections 14005 and 14006 of the "American Recovery and 117
Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the 118
school will pay teachers based upon performance in accordance with 119
section 3317.141 and will comply with section 3319.111 of the 120
Revised Code as if it were a school district. 121

(12) Arrangements for providing health and other benefits to 122
employees; 123

(13) The length of the contract, which shall begin at the 124
beginning of an academic year. No contract shall exceed five years 125
unless such contract has been renewed pursuant to division (E) of 126
this section. 127

(14) The governing authority of the school, which shall be 128
responsible for carrying out the provisions of the contract; 129

(15) A financial plan detailing an estimated school budget 130
for each year of the period of the contract and specifying the 131
total estimated per pupil expenditure amount for each such year. 132

(16) Requirements and procedures regarding the disposition of 133
employees of the school in the event the contract is terminated or 134
not renewed pursuant to section 3314.07 of the Revised Code; 135

(17) Whether the school is to be created by converting all or 136
part of an existing public school or educational service center 137
building or is to be a new start-up school, and if it is a 138
converted public school or service center building, specification 139
of any duties or responsibilities of an employer that the board of 140
education or service center governing board that operated the 141
school or building before conversion is delegating to the 142

governing authority of the community school with respect to all or 143
any specified group of employees provided the delegation is not 144
prohibited by a collective bargaining agreement applicable to such 145
employees; 146

(18) Provisions establishing procedures for resolving 147
disputes or differences of opinion between the sponsor and the 148
governing authority of the community school; 149

(19) A provision requiring the governing authority to adopt a 150
policy regarding the admission of students who reside outside the 151
district in which the school is located. That policy shall comply 152
with the admissions procedures specified in sections 3314.06 and 153
3314.061 of the Revised Code and, at the sole discretion of the 154
authority, shall do one of the following: 155

(a) Prohibit the enrollment of students who reside outside 156
the district in which the school is located; 157

(b) Permit the enrollment of students who reside in districts 158
adjacent to the district in which the school is located; 159

(c) Permit the enrollment of students who reside in any other 160
district in the state. 161

(20) A provision recognizing the authority of the department 162
of education to take over the sponsorship of the school in 163
accordance with the provisions of division (C) of section 3314.015 164
of the Revised Code; 165

(21) A provision recognizing the sponsor's authority to 166
assume the operation of a school under the conditions specified in 167
division (B) of section 3314.073 of the Revised Code; 168

(22) A provision recognizing both of the following: 169

(a) The authority of public health and safety officials to 170
inspect the facilities of the school and to order the facilities 171
closed if those officials find that the facilities are not in 172

compliance with health and safety laws and regulations; 173

(b) The authority of the department of education as the 174
community school oversight body to suspend the operation of the 175
school under section 3314.072 of the Revised Code if the 176
department has evidence of conditions or violations of law at the 177
school that pose an imminent danger to the health and safety of 178
the school's students and employees and the sponsor refuses to 179
take such action. 180

(23) A description of the learning opportunities that will be 181
offered to students including both classroom-based and 182
non-classroom-based learning opportunities that is in compliance 183
with criteria for student participation established by the 184
department under division (H)(2) of section 3314.08 of the Revised 185
Code; 186

(24) The school will comply with sections 3302.04 and 187
3302.041 of the Revised Code, except that any action required to 188
be taken by a school district pursuant to those sections shall be 189
taken by the sponsor of the school. However, the sponsor shall not 190
be required to take any action described in division (F) of 191
section 3302.04 of the Revised Code. 192

(25) Beginning in the 2006-2007 school year, the school will 193
open for operation not later than the thirtieth day of September 194
each school year, unless the mission of the school as specified 195
under division (A)(2) of this section is solely to serve dropouts. 196
In its initial year of operation, if the school fails to open by 197
the thirtieth day of September, or within one year after the 198
adoption of the contract pursuant to division (D) of section 199
3314.02 of the Revised Code if the mission of the school is solely 200
to serve dropouts, the contract shall be void. 201

(B) The community school shall also submit to the sponsor a 202
comprehensive plan for the school. The plan shall specify the 203

following:	204
(1) The process by which the governing authority of the school will be selected in the future;	205 206
(2) The management and administration of the school;	207
(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;	208 209 210 211 212
(4) The instructional program and educational philosophy of the school;	213 214
(5) Internal financial controls.	215
(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.	216 217 218 219 220 221 222 223 224
(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:	225 226 227 228 229
(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	230 231
(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at	232 233

least an annual basis;	234
(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;	235 236 237 238
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	239 240 241
(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;	242 243 244 245 246 247 248
(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.	249 250 251
(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 sections 3314.07, 3314.072, and 3314.073 of the Revised Code.	252 253 254 255 256 257 258 259 260 261
(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised	262 263 264

Code or permanently closes prior to the expiration of the 265
contract, the contract shall be void and the school shall not 266
enter into a contract with any other sponsor. A school shall not 267
be considered permanently closed because the operations of the 268
school have been suspended pursuant to section 3314.072 of the 269
Revised Code. 270

Sec. 3320.01. (A) As used in this section, "religious 271
expression" includes any of the following: 272

(1) Prayer; 273

(2) Religious gatherings, including but not limited to prayer 274
groups, religious clubs, "see you at the pole" gatherings, or 275
other religious gatherings; 276

(3) Distribution of written materials or literature of a 277
religious nature; 278

(4) Any other activity of a religious nature, including 279
wearing symbolic clothing or expression of a religious viewpoint, 280
provided that the activity is not obscene, vulgar, offensively 281
lewd, or indecent. 282

(B) Not later than one hundred eighty days after the 283
effective date of this section, each school district board of 284
education or governing body of a school shall adopt a policy to 285
establish a limited public forum for student speakers at all 286
school events at which a student is to publicly speak. That policy 287
shall do the following: 288

(1) Provide a forum in a manner that does not discriminate on 289
the basis of religion during a public presentation on an otherwise 290
permissible subject; 291

(2) Provide a method, based on neutral criteria, for the 292
selection of student speakers at school events and commencement 293
ceremonies; 294

(3) Establish a reasonable and appropriate maximum time 295
limit, taking into consideration the occasion at which a student 296
will speak publicly; 297

(4) Ensure that a student speaker does not engage in obscene, 298
vulgar, offensively lewd, or indecent speech; 299

(5) Contain a statement, in writing, substantially similar to 300
the following: "The student speaker's message during this activity 301
does not reflect the endorsement, sponsorship, position, or 302
expression of this district or school. The content of this message 303
was prepared by the student, and the district or school refrained 304
from any interaction with the student regarding the student 305
speaker's viewpoint, religious or otherwise, and only required the 306
student's message to focus on an otherwise permissible subject." 307
The statement shall be provided at all commencement ceremonies and 308
at any other event in which a student speaks publicly for as long 309
as a need exists to dispel confusion over the district's or 310
school's nonsponsorship of the student's speech. 311

(6) Establish a process for selecting students to speak at 312
formal events, at which it is customary for a student council 313
officer, class officer, highest academically rated student, or 314
other student who demonstrates leadership and character, as 315
designated by the district board; 316

(7) Establish a process for selecting students to speak at 317
informal events, such as daily general announcements, athletic 318
event moments of silence, and other informal events as designated 319
by the district board. The selection process shall be based on 320
neutral criteria and open to the entire student body of a school. 321
Notice of the selection process shall be announced not less than 322
three days prior to selection. Students may choose which speaking 323
engagements to volunteer for, but speakers shall be selected at 324
random. The selection process shall include a period of time for 325
which each student shall speak, such as each student shall 326

introduce morning announcements for one week, or other time period 327
as designated by the district board. 328

No district or school shall prohibit or exclude a student 329
from speaking on an otherwise permissible subject simply because 330
the subject is expressed from a religious viewpoint. 331

(C) Not less than ninety days after the effective date of 332
this section, the department of education shall develop a model 333
policy for use by school districts and schools in adopting their 334
own limited public forum policies in compliance with division (A) 335
of this section; however, no school district board of education or 336
governing body of a school shall be required to adopt the model 337
policy. 338

Sec. 3326.11. Each science, technology, engineering, and 339
mathematics school established under this chapter and its 340
governing body shall comply with sections 9.90, 9.91, 109.65, 341
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 342
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 343
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 344
3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 345
3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 346
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 347
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 348
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 349
3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.21, 3319.32, 350
3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3320.01, 351
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 352
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 353
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 354
4123., 4141., and 4167. of the Revised Code as if it were a school 355
district. 356

Sec. 3328.24. A college-preparatory boarding school 357
established under this chapter and its board of trustees shall 358
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 359
3301.0714, 3313.6411, 3319.39, ~~and~~ 3319.391, and 3320.01 of the 360
Revised Code as if the school were a school district and the 361
school's board of trustees were a district board of education. 362

Section 2. That existing sections 3314.03, 3326.11, and 363
3328.24 of the Revised Code are hereby repealed. 364