

# AN ACT

To amend sections 3313.608, 3328.02, and 3328.15 and to enact sections 3301.077, 3302.13, 3302.14, 3318.62, 3319.233, and 3333.049 of the Revised Code to revise the requirements of the Third-Grade Reading Guarantee, to revise the laws regarding facilities of a college-preparatory boarding school, and to declare an emergency.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 3313.608, 3328.02, and 3328.15 be amended and sections 3301.077, 3302.13, 3302.14, 3318.62, 3319.233, and 3333.049 of the Revised Code be enacted to read as follows:

Sec. 3301.077. Not later than January 31, 2014, the state board of education shall adopt reading competencies for all reading credentials and training. Such competencies shall include, but not be limited to, an understanding of phonemic awareness, phonics, fluency, vocabulary, comprehension, appropriate use of assessments, differentiated instruction, and selection of appropriate instructional materials and application of research-based instructional practices.

Sec. 3302.13. (A) This section applies to any school district or community school that meets both of the following criteria, as reported on the past two consecutive report cards issued for that district or school under section 3302.03 of the Revised Code:

(1) The district or school received a grade of "D" or "F" on the kindergarten through third-grade literacy progress measure under division (C)(3)(e) of section 3302.03 of the Revised Code.

(2) Less than sixty per cent of the district's students who took the third grade English language arts assessment prescribed under section 3301.0710 of the Revised Code during the most recent fall and spring administrations of that assessment attained at least a proficient score on that assessment.

(B) By December 31, 2016, and by the thirty-first day of each December thereafter, any school district or community school that meets the

criteria set forth in division (A) of this section shall submit to the department of education a school or district reading achievement improvement plan, which shall include all requirements prescribed by the state board of education pursuant to division (C) of this section.

(C) Not later than December 31, 2014, the state board shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing the content of and deadlines for the reading achievement improvement plans required under division (B) of this section. The rules shall prescribe that each plan include, at a minimum, an analysis of relevant student performance data, measurable student performance goals, strategies to meet specific student needs, a staffing and professional development plan, and instructional strategies for improving literacy.

(D) Any school district or community school to which this section applies shall no longer be required to submit an improvement plan pursuant to division (B) of this section when that district or school meets either of the following criteria, as reported on the most recent report card issued for that district or school under section 3302.03 of the Revised Code:

(1) The district or school received a grade of "C" or higher on the kindergarten through third-grade literacy progress measure under division (C)(3)(e) of section 3302.03 of the Revised Code.

(2) Not less than sixty per cent of the district's students who took the third grade English language arts assessment prescribed under section 3301.0710 of the Revised Code during the most recent fall and spring administrations of that assessment attain at least a proficient score on that assessment.

(E) The department of education shall post in a prominent location on its web site all plans submitted pursuant to this section.

Sec. 3302.14. The department of education annually shall collect, analyze, and publish data regarding reading achievement in schools and progress in assisting all students to become proficient readers. Beginning on January 31, 2015, and on the thirty-first day of each January thereafter, the department shall report these findings, in accordance with section 101.68 of the Revised Code, to the governor, the general assembly, and the state board of education. The report shall include, but not be limited to, both of the following:

(A) The progress of all students that were on a reading intervention plan at any time during grades kindergarten through four while enrolled in the state's public school system.

(B) The progress of school districts and community schools that are currently operating under a reading achievement improvement plan pursuant

to section 3302.13 of the Revised Code, as data is made available.

Sec. 3313.608. (A)(1) Beginning with students who enter third grade in the school year that starts July 1, 2009, and until June 30, 2013, unless the student is excused under division (C) of section 3301.0711 of the Revised Code from taking the assessment described in this section, for any student who ~~attains a score in the range~~ does not attain at least the equivalent level of achievement designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected at the end of third grade, each school district, in accordance with the policy adopted under section 3313.609 of the Revised Code, shall do one of the following:

(a) Promote the student to fourth grade if the student's principal and reading teacher agree that other evaluations of the student's skill in reading demonstrate that the student is academically prepared to be promoted to fourth grade;

(b) Promote the student to fourth grade but provide the student with intensive intervention services in fourth grade;

(c) Retain the student in third grade.

(2) Beginning with students who enter third grade in the 2013-2014 school year, unless the student is excused under division (C) of section 3301.0711 of the Revised Code from taking the assessment described in this section, no school district shall promote to fourth grade any student who ~~attains a score in the range~~ does not attain at least the equivalent level of achievement designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected at the end of third grade, unless one of the following applies:

(a) The student is a limited English proficient student who has been enrolled in United States schools for less than ~~two~~ three full school years and has had less than ~~two~~ three years of instruction in an English as a second language program.

(b) The student is a child with a disability entitled to special education and related services under Chapter 3323. of the Revised Code and the student's individualized education program exempts the student from retention under this division.

(c) The student demonstrates an acceptable level of performance on an alternative standardized reading assessment as determined by the department of education.

(d) All of the following apply:

(i) The student is a child with a disability entitled to special education

and related services under Chapter 3323. of the Revised Code.

(ii) The student has taken the third grade English language arts achievement assessment prescribed under section 3301.0710 of the Revised Code.

(iii) The student's individualized education program or plan under section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 794, as amended, shows that the student has received intensive remediation in reading for two school years but still demonstrates a deficiency in reading.

(iv) The student previously was retained in any of grades kindergarten to three.

(e)(i) The student received intensive remediation for reading for two school years but still demonstrates a deficiency in reading and was previously retained in any of grades kindergarten to three.

(ii) A student who is promoted under division (A)(2)(e)(i) of this section shall continue to receive intensive reading instruction in grade four. The instruction shall include an altered instructional day that includes specialized diagnostic information and specific research-based reading strategies for the student that have been successful in improving reading among low-performing readers.

(B)(1) Beginning in the 2012-2013 school year, to assist students in meeting the third grade guarantee established by this section, each school district board of education shall adopt policies and procedures with which it annually shall assess the reading skills of each student, except those students with significant cognitive disabilities or other disabilities as authorized by the department on a case-by-case basis, enrolled in kindergarten to third grade by the thirtieth day of September and shall identify students who are reading below their grade level. Each district shall use the diagnostic assessment to measure reading ability for the appropriate grade level adopted under section 3301.079 of the Revised Code, or a comparable tool approved by the department of education, to identify such students. The policies and procedures shall require the students' classroom teachers to be involved in the assessment and the identification of students reading below grade level.

(2) For each student identified by the diagnostic assessment prescribed under this section as having reading skills below grade level, the district shall do both of the following:

(a) Provide to the student's parent or guardian, in writing, all of the following:

(i) Notification that the student has been identified as having a substantial deficiency in reading;

(ii) A description of the current services that are provided to the student;  
(iii) A description of the proposed supplemental instructional services and supports that will be provided to the student that are designed to remediate the identified areas of reading deficiency;

(iv) Notification that if the student attains a score in the range designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected at the end of third grade, the student shall be retained unless the student is exempt under division (A) of this section. The notification shall specify that the assessment under section 3301.0710 of the Revised Code is not the sole determinant of promotion and that additional evaluations and assessments are available to the student to assist parents and the district in knowing when a student is reading at or above grade level and ready for promotion.

(b) Provide intensive reading instruction services and regular diagnostic assessments to the student immediately following identification of a reading deficiency until the development of the reading improvement and monitoring plan required by division (C) of this section. These intervention services shall include research-based reading strategies that have been shown to be successful in improving reading among low-performing readers and instruction targeted at the student's identified reading deficiencies.

(3) For each student retained under division (A) of this section, the district shall do all of the following:

(a) Provide intense remediation services until the student is able to read at grade level. The remediation services shall include intensive interventions in reading that address the areas of deficiencies identified under this section including, but not limited to, not less than ninety minutes of reading instruction per day, and may include any of the following:

- (i) Small group instruction;
- (ii) Reduced teacher-student ratios;
- (iii) More frequent progress monitoring;
- (iv) Tutoring or mentoring;
- (v) Transition classes containing third and fourth grade students;
- (vi) Extended school day, week, or year;
- (vii) Summer reading camps.

(b) Establish a policy for the mid-year promotion of a student retained under division (A) of this section who demonstrates that the student is reading at or above grade level;

(c) Provide each student with a teacher who satisfies one or more of the applicable criteria set forth in division (H) of this section.

The district shall offer the option for students to receive applicable services from one or more providers other than the district. Providers shall be screened and approved by the district or the department of education. If the student participates in the remediation services and demonstrates reading proficiency in accordance with standards adopted by the department prior to the start of fourth grade, the district shall promote the student to that grade.

(4) For each student retained under division (A) of this section who has demonstrated proficiency in a specific academic ability field, each district shall provide instruction commensurate with student achievement levels in that specific academic ability field.

As used in this division, "specific academic ability field" has the same meaning as in section 3324.01 of the Revised Code.

(C) For each student required to be provided intervention services under this section, the district shall develop a reading improvement and monitoring plan within sixty days after receiving the student's results on the diagnostic assessment or comparable tool administered under division (B)(1) of this section. The district shall involve the student's parent or guardian and classroom teacher in developing the plan. The plan shall include all of the following:

(1) Identification of the student's specific reading deficiencies;

(2) A description of the additional instructional services and support that will be provided to the student to remediate the identified reading deficiencies;

(3) Opportunities for the student's parent or guardian to be involved in the instructional services and support described in division (C)(2) of this section;

(4) A process for monitoring the extent to which the student receives the instructional services and support described in division (C)(2) of this section;

(5) A reading curriculum during regular school hours that does all of the following:

(a) Assists students to read at grade level;

(b) Provides scientifically based and reliable assessment;

(c) Provides initial and ongoing analysis of each student's reading progress.

(6) A statement that if the student ~~attains a score in the range~~ does not attain at least the equivalent level of achievement designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected by the end of third grade, the student may be retained in third

grade.

Each student with a reading improvement and monitoring plan under this division who enters third grade after July 1, 2013, shall be assigned to a teacher who satisfies one or more of the ~~applicable~~ criteria set forth in division (H) of this section.

The district shall report any information requested by the department about the reading improvement monitoring plans developed under this division in the manner required by the department.

(D) Each school district shall report annually to the department on its implementation and compliance with this section using guidelines prescribed by the superintendent of public instruction. The superintendent of public instruction annually shall report to the governor and general assembly the number and percentage of students in grades kindergarten through four reading below grade level based on the diagnostic assessments administered under division (B) of this section and the achievement assessments administered under divisions (A)(1)(a) and (b) of section 3301.0710 of the Revised Code in English language arts, aggregated by school district and building; the types of intervention services provided to students; and, if available, an evaluation of the efficacy of the intervention services provided.

(E) Any summer remediation services funded in whole or in part by the state and offered by school districts to students under this section shall meet the following conditions:

(1) The remediation methods are based on reliable educational research.

(2) The school districts conduct assessment before and after students participate in the program to facilitate monitoring results of the remediation services.

(3) The parents of participating students are involved in programming decisions.

(F) Any intervention or remediation services required by this section shall include intensive, explicit, and systematic instruction.

(G) This section does not create a new cause of action or a substantive legal right for any person.

(H)(1) ~~Prior to July 1, 2014, each~~ Except as provided under divisions (H)(2), (3), and (4) of this section, each student described in division (B)(3) or (C) of this section who enters third grade for the first time on or after July 1, 2013, shall be assigned a teacher who has ~~been actively engaged in the reading instruction of students for the previous three years~~ at least one year of teaching experience and who satisfies one or more of the following criteria:

(a) The teacher holds a reading endorsement on the teacher's license and

has attained a passing score on the corresponding assessment for that endorsement, as applicable.

(b) The teacher has completed a master's degree program with a major in reading.

(c) ~~The teacher has demonstrated evidence of a credential earned from a list of scientifically research-based reading instruction programs approved by the department was rated "most effective" for reading instruction consecutively for the most recent two years based on assessments of student growth measures developed by a vendor and that is on the list of student assessments approved by the state board under division (B)(2) of section 3319.112 of the Revised Code.~~

(d) The teacher was rated "above expected value added," ~~which means most effective~~ in reading instruction, as determined by criteria established by the department, for the last most recent, consecutive two school years.

~~(2) Effective July 1, 2014, each student described in divisions (B)(3) and (C) of this section shall be assigned a teacher who has been actively engaged in the reading instruction of students for the previous three years and who satisfies one or more of the following criteria:~~

~~(a) The teacher holds a reading endorsement on the teacher's license and has attained a passing score on the corresponding assessment for that endorsement.~~

~~(b) The teacher has completed a master's degree program with a major in reading.~~

~~(c) The teacher was rated above "above value added," which means most effective for the last two school years.~~

~~(d)(e) The teacher has earned a passing score on a rigorous test of principles of scientifically research-based reading instruction. This test shall be selected through a competitive bidding process and shall be as approved by the state board.~~

~~(3)(f) The teacher holds an educator license for teaching grades pre-kindergarten through three or four through nine issued on or after July 1, 2017.~~

(2) Notwithstanding division (H)(1) of this section, a student described in division (B)(3) or (C) of this section who enters third grade for the first time on or after July 1, 2013, may be assigned to a teacher with less than one year of teaching experience provided that the teacher meets one or more of the criteria described in divisions (H)(1)(a) to (f) of this section and that teacher is assigned a teacher mentor who meets the qualifications of division (H)(1) of this section.

(3) Notwithstanding division (H)(1) of this section, a student described



in division (B)(3) or (C) of this section who enters third grade for the first time on or after July 1, 2013, but prior to July 1, 2016, may be assigned to a teacher who holds an alternative credential approved by the department or who has successfully completed training that is based on principles of scientifically research-based reading instruction that has been approved by the department. Beginning on July 1, 2014, the alternative credentials and training described in division (H)(3) of this section shall be aligned with the reading competencies adopted by the state board of education under section 3301.077 of the Revised Code.

(4) Notwithstanding division (H)(1) of this section, a student described in division (B)(3) or (C) of this section who enters third grade for the first time on or after July 1, 2013, may receive reading intervention or remediation services under this section from an individual employed as a speech-language pathologist who holds a license issued by the board of speech-language pathology and audiology under Chapter 4753. of the Revised Code and a professional pupil services license as a school speech-language pathologist issued by the state board of education.

(5) A teacher, other than a student's teacher of record, may provide any services required under this section, so long as that other teacher meets the requirements of division (H) of this section and the teacher of record and the school principal agree to the assignment. Any such assignment shall be documented in the student's reading improvement and monitoring plan.

As used in this division, "teacher of record" means the classroom teacher to whom a student is assigned.

(I) Notwithstanding division (H) of this section, a teacher may teach reading to any student who is an English language learner, and has been in the United States for three years or less, or to a student who has an individualized education program developed under Chapter 3323. of the Revised Code if that teacher holds an alternative credential approved by the department or has successfully completed training that is based on principles of scientifically research-based reading instruction that has been approved by the department. Beginning on July 1, 2014, the alternative credentials and training described in this division shall be aligned with the reading competencies adopted by the state board of education under section 3301.077 of the Revised Code.

(J) If, on or after the effective date of this amendment, a school district or community school cannot furnish the number of teachers needed who satisfy one or more of the criteria set forth in division (H)(4) of this section for the 2013-2014 school year, the school district or community school shall develop and submit a staffing plan by June 30, 2013, ~~in a manner~~

~~determined by the department indicating the criteria that will be used to determine those teachers in the school district or community school who will teach and how the school district or community school will meet the requirements set forth in division (H)(2) of this section.~~

~~A school district or community school may include in this plan the option to contract with another school district or private provider that has been screened and approved by the department to provide intervention services. If the school district or community school's plan is not approved by the department by August 15, 2013, the school district or community school shall use a private contractor from a list approved by the department or contract with another district to provide intervention services for these students. The staffing plan shall include criteria that will be used to assign a student described in division (B)(3) or (C) of this section to a teacher, credentials or training held by teachers currently teaching at the school, and how the school district or community school will meet the requirements of this section. The school district or community school shall post the staffing plan on its web site for the applicable school year.~~

~~Not later than March 1, 2014, and on the first day of March in each year thereafter, a school district or community school that has submitted a plan under this division shall submit to the department a detailed report of the progress the district or school has made in meeting the requirements under this section.~~

~~A school district or community school may request an extension of a staffing plan beyond the 2013-2014 school year. Extension requests must be submitted to the department not later than the thirtieth day of April prior to the start of the applicable school year. The department may grant extensions valid through the 2015-2016 school year.~~

~~Until June 30, 2015, the department annually shall review all staffing plans and report to the state board not later than the thirtieth day of June of each year the progress of school districts and community schools in meeting the requirements of this section.~~

~~(K) The department of education shall designate one or more staff members to provide guidance and assistance to school districts and community schools in implementing the third grade guarantee established by this section, including any standards or requirements adopted to implement the guarantee and to provide information and support for reading instruction and achievement.~~

~~Sec. 3318.62. Any agreement between the Ohio school facilities commission and the board of trustees of a college-preparatory boarding school to provide facilities assistance under section 3318.60 or 3318.61 of~~

the Revised Code shall include the following stipulations:

(A) If the school ceases its operations, the school's board of trustees may permit the classroom facilities to be used for only an alternative public purpose, including, but not limited to, primary, secondary, vocational, or higher education services.

(B) If the school ceases its operations due to either the failure of the school's operator to comply with any of the requirements of the contract prescribed under section 3328.12 of the Revised Code or the default by the school's board of trustees on an underlying leasehold or mortgage agreement, the school's board of trustees shall return to the commission the unamortized portion of the state funds provided to the board of trustees under this chapter, based on a straight-line depreciation over the first eighteen years of occupancy. However, if, within twenty-four months after the school's cessation from operation, the classroom facilities of a college-preparatory boarding school are used for an alternative public purpose as prescribed by division (A) of this section, no return of funds by the board of trustees under this division shall be required.

Sec. 3319.233. (A) Beginning July 1, 2017, all new educator licenses issued for grades pre-kindergarten through three or four through nine shall require the applicant to attain a passing score on a rigorous examination of principles of scientifically research-based reading instruction that is aligned with the reading competencies adopted by the state board of education under section 3301.077 of the Revised Code.

(B) The state board shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing criteria and procedures necessary to implement the requirements of this section.

Sec. 3328.02. (A) Each college-preparatory boarding school established under this chapter is a public school and is part of the state's program of education.

(B) Acting through its board of trustees, the school may sue and be sued, acquire facilities as needed, contract for any services necessary for the operation of the school, and enter into contracts with the department of education pursuant to this chapter. The board of trustees may carry out any act and ensure the performance of any function that is in compliance with the Ohio Constitution, this chapter, other statutes applicable to college-preparatory boarding schools, and the contract entered into under this chapter establishing the school.

(C) Each college-preparatory boarding school shall be established as a public benefit corporation under Chapter 1702. of the Revised Code.

Sec. 3328.15. (A) Each college-preparatory boarding school established

under this chapter shall be governed by a board of trustees consisting of up to twenty-five members. Five of those members shall be appointed by the governor, with the advice and consent of the senate. The governor's appointments may be based on nonbinding recommendations made by the superintendent of public instruction. Of the remaining members, initial members shall be appointed by the school's operator and future members shall be appointed pursuant to the bylaws adopted under section 3328.13 of the Revised Code. The governor, operator, or any other person or entity who appoints a member of the board of trustees under this section or the bylaws adopted under section 3328.13 of the Revised Code may remove that member from the board at any time.

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

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

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

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

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

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

(6) One-third of the members appointed by the operator, rounded down to the nearest whole number, shall serve for an initial term of one year.

(7) Any remaining members appointed by the operator shall serve for an initial term of one year.

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

The beginning date and ending date of terms of office shall be as prescribed by the school's operator, unless modified in the bylaws adopted under section 3328.13 of the Revised Code.

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

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

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

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

Code.

(G) It shall be construed that any contract entered into by the board of trustees or any officer or trustee of a college-preparatory boarding school, including, but not limited to, an agreement or contract required by section 3318.08, 3318.60, or 3318.61 of the Revised Code, is entered into by such individuals in their official capacities as representatives of the college-preparatory boarding school. No officer, trustee, or member of the board of trustees of a college-preparatory boarding school incurs any personal liability by virtue of section 3318.08, 3318.60, or 3318.61 of the Revised Code or the entering into any contract on behalf of the school.

Sec. 3333.049. Not later than July 1, 2016, the chancellor of the Ohio board of regents shall revise the requirements for reading endorsement programs offered by institutions of higher education to align those requirements with the reading competencies adopted by the state board of education under section 3301.077 of the Revised Code.

SECTION 2. That existing sections 3313.608, 3328.02, and 3328.15 of the Revised Code are hereby repealed.

SECTION 3. The Department of Education shall conduct a study of diagnostic assessments for reading and writing for grades kindergarten through three that may be considered for approval by the State Board of Education under section 3301.079 of the Revised Code. The study shall include an examination of various diagnostic assessments to determine which are reliable and valid in indicating a student's ability and progress toward reading at grade level. The study shall also include methods to establish correlations between assessment results in order to determine equivalent performance levels across different assessments.

Not later than March 31, 2014, the Department shall submit a report of the study to the State Board of Education, the Governor, and the General Assembly, in accordance with section 101.68 of the Revised Code, with specific recommendations on diagnostic assessments, including recommended legislative changes regarding the approval and use of such assessments.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to facilitate timely implementation

of the act's revisions regarding reading intervention and to coordinate those revisions with other recently enacted amendments regarding reading intervention. Therefore, this act shall go into immediate effect.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 21

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_