

**As Passed by the Senate**

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

**S. B. No. 266**

**Senators Skindell, Lehner**

**Cosponsors: Senators Brown, Sawyer, Tavares, Bacon, Burke, Cafaro,  
Eklund, Gentile, Hite, Kearney, Manning, Schiavoni, Turner**

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**A B I L L**

To amend sections 3314.03, 3326.11, and 3328.24 and 1  
to enact section 3319.46 of the Revised Code with 2  
respect to the use of seclusion and physical 3  
restraint on students and positive behavior 4  
intervention supports in public schools and to 5  
amend the version of section 3326.11 of the 6  
Revised Code that is scheduled to take effect July 7  
1, 2014, to continue the provisions of this act on 8  
or after that effective date. 9

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

**Section 1.** That section 3314.03, 3326.11, and 3328.24 be 10  
amended and section 3319.46 of the Revised Code be enacted to read 11  
as follows: 12

**Sec. 3314.03.** A copy of every contract entered into under 13  
this section shall be filed with the superintendent of public 14  
instruction. The department of education shall make available on 15  
its web site a copy of every approved, executed contract filed 16  
with the superintendent under this section. 17

(A) Each contract entered into between a sponsor and the 18

governing authority of a community school shall specify the	19
following:	20
(1) That the school shall be established as either of the	21
following:	22
(a) A nonprofit corporation established under Chapter 1702.	23
of the Revised Code, if established prior to April 8, 2003;	24
(b) A public benefit corporation established under Chapter	25
1702. of the Revised Code, if established after April 8, 2003.	26
(2) The education program of the school, including the	27
school's mission, the characteristics of the students the school	28
is expected to attract, the ages and grades of students, and the	29
focus of the curriculum;	30
(3) The academic goals to be achieved and the method of	31
measurement that will be used to determine progress toward those	32
goals, which shall include the statewide achievement assessments;	33
(4) Performance standards by which the success of the school	34
will be evaluated by the sponsor;	35
(5) The admission standards of section 3314.06 of the Revised	36
Code and, if applicable, section 3314.061 of the Revised Code;	37
(6)(a) Dismissal procedures;	38
(b) A requirement that the governing authority adopt an	39
attendance policy that includes a procedure for automatically	40
withdrawing a student from the school if the student without a	41
legitimate excuse fails to participate in one hundred five	42
consecutive hours of the learning opportunities offered to the	43
student.	44
(7) The ways by which the school will achieve racial and	45
ethnic balance reflective of the community it serves;	46
(8) Requirements for financial audits by the auditor of	47
state. The contract shall require financial records of the school	48

to be maintained in the same manner as are financial records of 49  
school districts, pursuant to rules of the auditor of state. 50  
Audits shall be conducted in accordance with section 117.10 of the 51  
Revised Code. 52

(9) The facilities to be used and their locations; 53

(10) Qualifications of teachers, including a requirement that 54  
the school's classroom teachers be licensed in accordance with 55  
sections 3319.22 to 3319.31 of the Revised Code, except that a 56  
community school may engage noncertificated persons to teach up to 57  
twelve hours per week pursuant to section 3319.301 of the Revised 58  
Code. 59

(11) That the school will comply with the following 60  
requirements: 61

(a) The school will provide learning opportunities to a 62  
minimum of twenty-five students for a minimum of nine hundred 63  
twenty hours per school year. 64

(b) The governing authority will purchase liability 65  
insurance, or otherwise provide for the potential liability of the 66  
school. 67

(c) The school will be nonsectarian in its programs, 68  
admission policies, employment practices, and all other 69  
operations, and will not be operated by a sectarian school or 70  
religious institution. 71

(d) The school will comply with sections 9.90, 9.91, 109.65, 72  
121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 73  
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.539, 74  
3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 75  
3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 76  
3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 77  
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.814, 78  
3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 79

3319.391, 3319.41, 3319.46, 3321.01, 3321.041, 3321.13, 3321.14, 80  
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, 81  
and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 82  
4123., 4141., and 4167. of the Revised Code as if it were a school 83  
district and will comply with section 3301.0714 of the Revised 84  
Code in the manner specified in section 3314.17 of the Revised 85  
Code. 86

(e) The school shall comply with Chapter 102. and section 87  
2921.42 of the Revised Code. 88

(f) The school will comply with sections 3313.61, 3313.611, 89  
and 3313.614 of the Revised Code, except that for students who 90  
enter ninth grade for the first time before July 1, 2010, the 91  
requirement in sections 3313.61 and 3313.611 of the Revised Code 92  
that a person must successfully complete the curriculum in any 93  
high school prior to receiving a high school diploma may be met by 94  
completing the curriculum adopted by the governing authority of 95  
the community school rather than the curriculum specified in Title 96  
XXXVIII of the Revised Code or any rules of the state board of 97  
education. Beginning with students who enter ninth grade for the 98  
first time on or after July 1, 2010, the requirement in sections 99  
3313.61 and 3313.611 of the Revised Code that a person must 100  
successfully complete the curriculum of a high school prior to 101  
receiving a high school diploma shall be met by completing the 102  
Ohio core curriculum prescribed in division (C) of section 103  
3313.603 of the Revised Code, unless the person qualifies under 104  
division (D) or (F) of that section. Each school shall comply with 105  
the plan for awarding high school credit based on demonstration of 106  
subject area competency, adopted by the state board of education 107  
under division (J) of section 3313.603 of the Revised Code. 108

(g) The school governing authority will submit within four 109  
months after the end of each school year a report of its 110  
activities and progress in meeting the goals and standards of 111

divisions (A)(3) and (4) of this section and its financial status 112  
to the sponsor and the parents of all students enrolled in the 113  
school. 114

(h) The school, unless it is an internet- or computer-based 115  
community school, will comply with section 3313.801 of the Revised 116  
Code as if it were a school district. 117

(i) If the school is the recipient of moneys from a grant 118  
awarded under the federal race to the top program, Division (A), 119  
Title XIV, Sections 14005 and 14006 of the "American Recovery and 120  
Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the 121  
school will pay teachers based upon performance in accordance with 122  
section 3317.141 and will comply with section 3319.111 of the 123  
Revised Code as if it were a school district. 124

(12) Arrangements for providing health and other benefits to 125  
employees; 126

(13) The length of the contract, which shall begin at the 127  
beginning of an academic year. No contract shall exceed five years 128  
unless such contract has been renewed pursuant to division (E) of 129  
this section. 130

(14) The governing authority of the school, which shall be 131  
responsible for carrying out the provisions of the contract; 132

(15) A financial plan detailing an estimated school budget 133  
for each year of the period of the contract and specifying the 134  
total estimated per pupil expenditure amount for each such year. 135

(16) Requirements and procedures regarding the disposition of 136  
employees of the school in the event the contract is terminated or 137  
not renewed pursuant to section 3314.07 of the Revised Code; 138

(17) Whether the school is to be created by converting all or 139  
part of an existing public school or educational service center 140  
building or is to be a new start-up school, and if it is a 141

converted public school or service center building, specification 142  
of any duties or responsibilities of an employer that the board of 143  
education or service center governing board that operated the 144  
school or building before conversion is delegating to the 145  
governing authority of the community school with respect to all or 146  
any specified group of employees provided the delegation is not 147  
prohibited by a collective bargaining agreement applicable to such 148  
employees; 149

(18) Provisions establishing procedures for resolving 150  
disputes or differences of opinion between the sponsor and the 151  
governing authority of the community school; 152

(19) A provision requiring the governing authority to adopt a 153  
policy regarding the admission of students who reside outside the 154  
district in which the school is located. That policy shall comply 155  
with the admissions procedures specified in sections 3314.06 and 156  
3314.061 of the Revised Code and, at the sole discretion of the 157  
authority, shall do one of the following: 158

(a) Prohibit the enrollment of students who reside outside 159  
the district in which the school is located; 160

(b) Permit the enrollment of students who reside in districts 161  
adjacent to the district in which the school is located; 162

(c) Permit the enrollment of students who reside in any other 163  
district in the state. 164

(20) A provision recognizing the authority of the department 165  
of education to take over the sponsorship of the school in 166  
accordance with the provisions of division (C) of section 3314.015 167  
of the Revised Code; 168

(21) A provision recognizing the sponsor's authority to 169  
assume the operation of a school under the conditions specified in 170  
division (B) of section 3314.073 of the Revised Code; 171

(22) A provision recognizing both of the following:	172
(a) The authority of public health and safety officials to	173
inspect the facilities of the school and to order the facilities	174
closed if those officials find that the facilities are not in	175
compliance with health and safety laws and regulations;	176
(b) The authority of the department of education as the	177
community school oversight body to suspend the operation of the	178
school under section 3314.072 of the Revised Code if the	179
department has evidence of conditions or violations of law at the	180
school that pose an imminent danger to the health and safety of	181
the school's students and employees and the sponsor refuses to	182
take such action.	183
(23) A description of the learning opportunities that will be	184
offered to students including both classroom-based and	185
non-classroom-based learning opportunities that is in compliance	186
with criteria for student participation established by the	187
department under division (H)(2) of section 3314.08 of the Revised	188
Code;	189
(24) The school will comply with sections 3302.04 and	190
3302.041 of the Revised Code, except that any action required to	191
be taken by a school district pursuant to those sections shall be	192
taken by the sponsor of the school. However, the sponsor shall not	193
be required to take any action described in division (F) of	194
section 3302.04 of the Revised Code.	195
(25) Beginning in the 2006-2007 school year, the school will	196
open for operation not later than the thirtieth day of September	197
each school year, unless the mission of the school as specified	198
under division (A)(2) of this section is solely to serve dropouts.	199
In its initial year of operation, if the school fails to open by	200
the thirtieth day of September, or within one year after the	201
adoption of the contract pursuant to division (D) of section	202

3314.02 of the Revised Code if the mission of the school is solely	203
to serve dropouts, the contract shall be void.	204
(B) The community school shall also submit to the sponsor a	205
comprehensive plan for the school. The plan shall specify the	206
following:	207
(1) The process by which the governing authority of the	208
school will be selected in the future;	209
(2) The management and administration of the school;	210
(3) If the community school is a currently existing public	211
school or educational service center building, alternative	212
arrangements for current public school students who choose not to	213
attend the converted school and for teachers who choose not to	214
teach in the school or building after conversion;	215
(4) The instructional program and educational philosophy of	216
the school;	217
(5) Internal financial controls.	218
(C) A contract entered into under section 3314.02 of the	219
Revised Code between a sponsor and the governing authority of a	220
community school may provide for the community school governing	221
authority to make payments to the sponsor, which is hereby	222
authorized to receive such payments as set forth in the contract	223
between the governing authority and the sponsor. The total amount	224
of such payments for oversight and monitoring of the school shall	225
not exceed three per cent of the total amount of payments for	226
operating expenses that the school receives from the state.	227
(D) The contract shall specify the duties of the sponsor	228
which shall be in accordance with the written agreement entered	229
into with the department of education under division (B) of	230
section 3314.015 of the Revised Code and shall include the	231
following:	232



(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	233 234
(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;	235 236 237
(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;	238 239 240 241
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	242 243 244
(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;	245 246 247 248 249 250 251
(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.	252 253 254
(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	255 256 257 258 259 260 261 262 263

sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 264

(F) If a community school fails to open for operation within 265  
one year after the contract entered into under this section is 266  
adopted pursuant to division (D) of section 3314.02 of the Revised 267  
Code or permanently closes prior to the expiration of the 268  
contract, the contract shall be void and the school shall not 269  
enter into a contract with any other sponsor. A school shall not 270  
be considered permanently closed because the operations of the 271  
school have been suspended pursuant to section 3314.072 of the 272  
Revised Code. 273

Sec. 3319.46. The state board of education shall adopt rules 274  
under Chapter 119. of the Revised Code that establish a policy and 275  
standards for the implementation of positive behavior intervention 276  
supports and the use of physical restraint or seclusion on 277  
students. 278

Each school district board of education shall comply with the 279  
policy and standards adopted by the state board under this 280  
section. 281

**Sec. 3326.11.** Each science, technology, engineering, and 282  
mathematics school established under this chapter and its 283  
governing body shall comply with sections 9.90, 9.91, 109.65, 284  
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 285  
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 286  
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 287  
3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 288  
3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 289  
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 290  
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 291  
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 292  
3313.816, 3313.817, 3313.86, 3313.88, 3313.96, 3319.073, 3319.21, 293

3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 294  
3319.46, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 295  
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and 296  
Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 297  
4112., 4123., 4141., and 4167. of the Revised Code as if it were a 298  
school district. 299

**Sec. 3328.24.** A college-preparatory boarding school 300  
established under this chapter and its board of trustees shall 301  
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 302  
3301.0714, 3313.6411, 3319.39, ~~and~~ 3319.391, and 3319.46 of the 303  
Revised Code as if the school were a school district and the 304  
school's board of trustees were a district board of education. 305

**Section 2.** That existing sections 3314.03, 3326.11, and 306  
3328.24 of the Revised Code are hereby repealed. 307

**Section 3.** That the version of section 3326.11 of the Revised 308  
Code that is scheduled to take effect on July 1, 2014, be amended 309  
to read as follows: 310

**Sec. 3326.11.** Each science, technology, engineering, and 311  
mathematics school established under this chapter and its 312  
governing body shall comply with sections 9.90, 9.91, 109.65, 313  
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 314  
3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 315  
3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 316  
3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 317  
3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 318  
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 319  
3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 320  
3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 321  
3313.816, 3313.817, 3313.86, 3313.96, 3319.073, 3319.21, 3319.32, 322

3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3319.46, 323  
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 324  
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 325  
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 326  
4123., 4141., and 4167. of the Revised Code as if it were a school 327  
district. 328

**Section 4.** That the existing version of section 3326.11 of 329  
the Revised Code that is scheduled to take effect on July 1, 2014, 330  
is hereby repealed. 331

**Section 5.** Sections 3 and 4 of this act shall take effect on 332  
July 1, 2014. 333