

As Reported by the Senate Education Committee

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

S. B. No. 266

Senators Skindell, Lehner

Cosponsors: Senators Brown, Sawyer, Tavares

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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 following:	21
(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;	22
(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.	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
(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;	25
(4) Performance standards by which the success of the school will be evaluated by the sponsor;	26
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	27
(6)(a) Dismissal procedures;	28
(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.	29
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	30
(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	31

school districts, pursuant to rules of the auditor of state.	50
Audits shall be conducted in accordance with section 117.10 of the Revised Code.	51
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(9) The facilities to be used and their locations;	53
(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.	54
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(11) That the school will comply with the following requirements:	60
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(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.	62
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(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.	65
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(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.	68
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(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>3319.46</u> , 3321.01, 3321.041, 3321.13, 3321.14,	72
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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
XXXIII 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 comprehensive plan for the school. The plan shall specify the following:	205 206 207
(1) The process by which the governing authority of the school will be selected in the future;	208 209
(2) The management and administration of the school;	210
(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;	211 212 213 214 215
(4) The instructional program and educational philosophy of the school;	216 217
(5) Internal financial controls.	218
(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.	219 220 221 222 223 224 225 226 227
(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:	228 229 230 231 232
(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	235
and the organization and operation of the community school on at	236
least an annual basis;	237
(3) Report on an annual basis the results of the evaluation	238
conducted under division (D)(2) of this section to the department	239
of education and to the parents of students enrolled in the	240
community school;	241
(4) Provide technical assistance to the community school in	242
complying with laws applicable to the school and terms of the	243
contract;	244
(5) Take steps to intervene in the school's operation to	245
correct problems in the school's overall performance, declare the	246
school to be on probationary status pursuant to section 3314.073	247
of the Revised Code, suspend the operation of the school pursuant	248
to section 3314.072 of the Revised Code, or terminate the contract	249
of the school pursuant to section 3314.07 of the Revised Code as	250
determined necessary by the sponsor;	251
(6) Have in place a plan of action to be undertaken in the	252
event the community school experiences financial difficulties or	253
closes prior to the end of a school year.	254
(E) Upon the expiration of a contract entered into under this	255
section, the sponsor of a community school may, with the approval	256
of the governing authority of the school, renew that contract for	257
a period of time determined by the sponsor, but not ending earlier	258
than the end of any school year, if the sponsor finds that the	259
school's compliance with applicable laws and terms of the contract	260
and the school's progress in meeting the academic goals prescribed	261
in the contract have been satisfactory. Any contract that is	262
renewed under this division remains subject to the provisions of	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