

I_131_1904-4

131st General Assembly
Regular Session
2015-2016

Sub. H.B. No. 420

A BILL

To amend sections 3314.03, 3319.99, 3326.11, and 1
3328.24 and to enact section 3319.152 of the 2
Revised Code to prohibit public school employees 3
from suggesting to students that they not take 4
state assessments, to require the Department of 5
Education to calculate two separate performance 6
index score grades on the state report cards 7
issued for the 2014-2015 school year, and to 8
declare an emergency. 9

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

Section 1. That sections 3314.03, 3319.99, 3326.11, and 10
3328.24 be amended and section 3319.152 of the Revised Code be 11
enacted to read 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 governing authority of a community school shall specify the following:

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

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

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

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

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

(4) Performance standards, including but not limited to all applicable report card measures set forth in section 3302.03 or 3314.017 of the Revised Code, by which the success of the school will be evaluated by the sponsor;

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

(6) (a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically

withdrawing a student from the school if the student without a
legitimate excuse fails to participate in one hundred five
consecutive hours of the learning opportunities offered to the
student.

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

(8) Requirements for financial audits by the auditor of
state. The contract shall require financial records of the
school 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 Revised Code.

(9) An addendum to the contract outlining the facilities
to be used that contains at least the following information:

(a) A detailed description of each facility used for
instructional purposes;

(b) The annual costs associated with leasing each facility
that are paid by or on behalf of the school;

(c) The annual mortgage principal and interest payments
that are paid by the school;

(d) The name of the lender or landlord, identified as
such, and the lender's or landlord's relationship to the
operator, if any.

(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. 74

(11) That the school will comply with the following 75
requirements: 76

(a) The school will provide learning opportunities to a 77
minimum of twenty-five students for a minimum of nine hundred 78
twenty hours per school year. 79

(b) The governing authority will purchase liability 80
insurance, or otherwise provide for the potential liability of 81
the school. 82

(c) The school will be nonsectarian in its programs, 83
admission policies, employment practices, and all other 84
operations, and will not be operated by a sectarian school or 85
religious institution. 86

(d) The school will comply with sections 9.90, 9.91, 87
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 88
3301.0711, 3301.0712, 3301.0715, 3301.948, 3313.472, 3313.50, 89
3313.536, 3313.539, 3313.608, 3313.609, 3313.6012, 3313.6013, 90
3313.6014, 3313.6015, 3313.6020, 3313.643, 3313.648, 3313.6411, 91
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 92
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 93
3313.718, 3313.719, 3313.7112, 3313.721, 3313.80, 3313.814, 94
3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 95
3319.152, 3319.321, 3319.39, 3319.391, 3319.41, 3319.46, 96
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 97
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 98
117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. 99
of the Revised Code as if it were a school district and will 100
comply with section 3301.0714 of the Revised Code in the manner 101
specified in section 3314.17 of the Revised Code. 102

(e) The school shall comply with Chapter 102. and section 103
2921.42 of the Revised Code. 104

(f) The school will comply with sections 3313.61, 105
3313.611, and 3313.614 of the Revised Code, except that for 106
students who enter ninth grade for the first time before July 1, 107
2010, the requirement in sections 3313.61 and 3313.611 of the 108
Revised Code that a person must successfully complete the 109
curriculum in any high school prior to receiving a high school 110
diploma may be met by completing the curriculum adopted by the 111
governing authority of the community school rather than the 112
curriculum specified in Title XXXVIII of the Revised Code or any 113
rules of the state board of education. Beginning with students 114
who enter ninth grade for the first time on or after July 1, 115
2010, the requirement in sections 3313.61 and 3313.611 of the 116
Revised Code that a person must successfully complete the 117
curriculum of a high school prior to receiving a high school 118
diploma shall be met by completing the requirements prescribed 119
in division (C) of section 3313.603 of the Revised Code, unless 120
the person qualifies under division (D) or (F) of that section. 121
Each school shall comply with the plan for awarding high school 122
credit based on demonstration of subject area competency, and 123
beginning with the 2016-2017 school year, with the updated plan 124
that permits students enrolled in seventh and eighth grade to 125
meet curriculum requirements based on subject area competency 126
adopted by the state board of education under divisions (J) (1) 127
and (2) of section 3313.603 of the Revised Code. 128

(g) The school governing authority will submit within four 129
months after the end of each school year a report of its 130
activities and progress in meeting the goals and standards of 131
divisions (A) (3) and (4) of this section and its financial 132
status to the sponsor and the parents of all students enrolled 133

in the school. 134

(h) The school, unless it is an internet- or computer- 135
based community school, will comply with section 3313.801 of the 136
Revised Code as if it were a school district. 137

(i) If the school is the recipient of moneys from a grant 138
awarded under the federal race to the top program, Division (A), 139
Title XIV, Sections 14005 and 14006 of the "American Recovery 140
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 141
the school will pay teachers based upon performance in 142
accordance with section 3317.141 and will comply with section 143
3319.111 of the Revised Code as if it were a school district. 144

(j) If the school operates a preschool program that is 145
licensed by the department of education under sections 3301.52 146
to 3301.59 of the Revised Code, the school shall comply with 147
sections 3301.50 to 3301.59 of the Revised Code and the minimum 148
standards for preschool programs prescribed in rules adopted by 149
the state board under section 3301.53 of the Revised Code. 150

(12) Arrangements for providing health and other benefits 151
to employees; 152

(13) The length of the contract, which shall begin at the 153
beginning of an academic year. No contract shall exceed five 154
years unless such contract has been renewed pursuant to division 155
(E) of this section. 156

(14) The governing authority of the school, which shall be 157
responsible for carrying out the provisions of the contract; 158

(15) A financial plan detailing an estimated school budget 159
for each year of the period of the contract and specifying the 160
total estimated per pupil expenditure amount for each such year. 161

(16) Requirements and procedures regarding the disposition 162
of employees of the school in the event the contract is 163
terminated or not renewed pursuant to section 3314.07 of the 164
Revised Code; 165

(17) Whether the school is to be created by converting all 166
or part of an existing public school or educational service 167
center building or is to be a new start-up school, and if it is 168
a converted public school or service center building, 169
specification of any duties or responsibilities of an employer 170
that the board of education or service center governing board 171
that operated the school or building before conversion is 172
delegating to the governing authority of the community school 173
with respect to all or any specified group of employees provided 174
the delegation is not prohibited by a collective bargaining 175
agreement applicable to such employees; 176

(18) Provisions establishing procedures for resolving 177
disputes or differences of opinion between the sponsor and the 178
governing authority of the community school; 179

(19) A provision requiring the governing authority to 180
adopt a policy regarding the admission of students who reside 181
outside the district in which the school is located. That policy 182
shall comply with the admissions procedures specified in 183
sections 3314.06 and 3314.061 of the Revised Code and, at the 184
sole discretion of the authority, shall do one of the following: 185

(a) Prohibit the enrollment of students who reside outside 186
the district in which the school is located; 187

(b) Permit the enrollment of students who reside in 188
districts adjacent to the district in which the school is 189
located; 190

(c) Permit the enrollment of students who reside in any other district in the state.	191 192
(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;	193 194 195 196
(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;	197 198 199
(22) A provision recognizing both of the following:	200
(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;	201 202 203 204
(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action.	205 206 207 208 209 210 211
(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (H) (2) of section 3314.08 of the Revised Code;	212 213 214 215 216 217
(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to	218 219

be taken by a school district pursuant to those sections shall 220
be taken by the sponsor of the school. However, the sponsor 221
shall not be required to take any action described in division 222
(F) of section 3302.04 of the Revised Code. 223

(25) Beginning in the 2006-2007 school year, the school 224
will open for operation not later than the thirtieth day of 225
September each school year, unless the mission of the school as 226
specified under division (A) (2) of this section is solely to 227
serve dropouts. In its initial year of operation, if the school 228
fails to open by the thirtieth day of September, or within one 229
year after the adoption of the contract pursuant to division (D) 230
of section 3314.02 of the Revised Code if the mission of the 231
school is solely to serve dropouts, the contract shall be void. 232

(26) Whether the school's governing authority is planning 233
to seek designation for the school as a STEM school equivalent 234
under section 3326.032 of the Revised Code; 235

(27) That the school's attendance and participation 236
policies will be available for public inspection; 237

(28) That the school's attendance and participation 238
records shall be made available to the department of education, 239
auditor of state, and school's sponsor to the extent permitted 240
under and in accordance with the "Family Educational Rights and 241
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, 242
and any regulations promulgated under that act, and section 243
3319.321 of the Revised Code; 244

(29) If a school operates using the blended learning 245
model, as defined in section 3301.079 of the Revised Code, all 246
of the following information: 247

(a) An indication of what blended learning model or models 248

will be used;	249
(b) A description of how student instructional needs will be determined and documented;	250 251
(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;	252 253
(d) The school's attendance requirements, including how the school will document participation in learning opportunities;	254 255 256
(e) A statement describing how student progress will be monitored;	257 258
(f) A statement describing how private student data will be protected;	259 260
(g) A description of the professional development activities that will be offered to teachers.	261 262
(30) A provision requiring that all moneys the school's operator loans to the school, including facilities loans or cash flow assistance, must be accounted for, documented, and bear interest at a fair market rate;	263 264 265 266
(31) A provision requiring that, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity shall be independent from the operator with which the school has contracted.	267 268 269 270 271
(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:	272 273 274
(1) The process by which the governing authority of the	275

school will be selected in the future;	276
(2) The management and administration of the school;	277
(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;	278 279 280 281 282
(4) The instructional program and educational philosophy of the school;	283 284
(5) Internal financial controls.	285
When submitting the plan under this division, the school shall also submit copies of all policies and procedures regarding internal financial controls adopted by the governing authority of the school.	286 287 288 289
(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 monitoring, oversight, and technical assistance 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.	290 291 292 293 294 295 296 297 298 299
(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:	300 301 302 303 304

- (1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;
- (2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;
- (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;
- (4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;
- (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;
- (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.
- (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 334
academic goals prescribed in the contract have been 335
satisfactory. Any contract that is renewed under this division 336
remains subject to the provisions of sections 3314.07, 3314.072, 337
and 3314.073 of the Revised Code. 338

(F) If a community school fails to open for operation 339
within one year after the contract entered into under this 340
section is adopted pursuant to division (D) of section 3314.02 341
of the Revised Code or permanently closes prior to the 342
expiration of the contract, the contract shall be void and the 343
school shall not enter into a contract with any other sponsor. A 344
school shall not be considered permanently closed because the 345
operations of the school have been suspended pursuant to section 346
3314.072 of the Revised Code. 347

Sec. 3319.152. (A) No employee of a school district or 348
public school shall negligently suggest to any student, or 349
parent, guardian, or custodian of that student, enrolled in the 350
district or school that the student should choose to not take 351
any assessment prescribed by section 3301.0710 or 3301.0712 of 352
the Revised Code. This prohibition does not apply to an employee 353
of the district who is a member of an IEP team when determining 354
individual appropriate accommodations that are necessary to 355
measure the academic achievement and functional performance of a 356
child with a disability on state and district-wide assessments 357
for purposes of the child's IEP. 358

(B) On a finding by the state board of education, after 359
investigation, that a school employee who holds a license issued 360
by the state board has violated division (A) of this section, 361
the license of that employee shall be suspended for one year. 362
Prior to commencing an investigation, the state board shall give 363

the employee notice of the allegation and an opportunity to 364
respond and present a defense. 365

(C) (1) Violation of division (A) of this section is 366
grounds for termination of employment of a nonteaching employee 367
under division (C) of section 3319.081 or section 124.34 of the 368
Revised Code. 369

(2) Violation of division (A) of this section is grounds 370
for termination of a teacher contract under section 3311.82 or 371
3319.16 of the Revised Code. 372

(D) As used in this section: 373

(1) "Child with a disability," "IEP," and "IEP team" have 374
the same meanings as in section 3323.01 of the Revised Code. 375

(2) "License" means a certificate, license, or permit 376
issued under this chapter. 377

Sec. 3319.99. (A) Whoever violates division (A) of section 378
3319.151 or division (A) of section 3319.152 of the Revised Code 379
is guilty of a minor misdemeanor. 380

(B) Whoever violates division (H) (1) of section 3319.311 381
of the Revised Code is guilty of a misdemeanor of the first 382
degree. 383

(C) Whoever violates division (F) of section 3319.313 of 384
the Revised Code shall be punished as follows: 385

(1) Except as otherwise provided in division (C) (2) of 386
this section, the person is guilty of a misdemeanor of the 387
fourth degree. 388

(2) The person is guilty of a misdemeanor of the first 389
degree if both of the following conditions apply: 390

(a) The employee who is the subject of the report that the person fails to submit was required to be reported for the commission or alleged commission of an act or offense involving the infliction on a child of any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child;

(b) During the period between the violation of division (F) of section 3319.313 of the Revised Code and the conviction of or plea of guilty by the person for that violation, the employee who is the subject of the report that the person fails to submit inflicts on any child attending a school district, educational service center, public or nonpublic school, or county board of developmental disabilities where the employee works any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child.

(D) Whoever violates division (B) or (D) of section 3319.317 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 3326.11. Each science, technology, engineering, and mathematics school established under this chapter and its governing body shall comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 3301.0714, 3301.0715, 3301.948, 3313.14, 3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.61, 3313.611, 3313.614, 3313.615, 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, 3313.7112, 3317.721, 3313.80, 3313.801, 3313.814, 421
3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 3319.073, _ 422
3319.152, 3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 423
3319.391, 3319.41, 3319.45, 3319.46, 3321.01, 3321.041, 3321.13, 424
3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 425
4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 426
3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of 427
the Revised Code as if it were a school district. 428

Sec. 3328.24. A college-preparatory boarding school 429
established under this chapter and its board of trustees shall 430
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 431
3301.0714, 3301.948, 3313.536, 3313.6013, 3313.6411, 3313.7112, 432
3313.721, 3313.89, 3319.152, 3319.39, 3319.391, and 3319.46 and 433
Chapter 3365. of the Revised Code as if the school were a school 434
district and the school's board of trustees were a district 435
board of education. 436

Section 2. That existing sections 3314.03, 3319.99, 437
3326.11, and 3328.24 of the Revised Code are hereby repealed. 438

Section 3. Notwithstanding anything in the Revised Code to 439
the contrary, the Department of Education shall assign two 440
separate grades for the performance index score under division 441
(B) (1) (b) or (C) (1) (b) of section 3302.03 of the Revised Code 442
for any school district or building for the 2014-2015 school 443
year. One grade shall be calculated in accordance with division 444
(A) of section 3302.01 and division (K) (2) of section 3302.03 of 445
the Revised Code. The other grade shall be calculated in the 446
same manner, but it shall not include students to whom a school 447
district or school is required to administer an assessment under 448
section 3301.0710 or 3301.0712 of the Revised Code who do not 449
take that assessment. 450

Section 4. Section 3314.03 of the Revised Code is 451
presented in this act as a composite of the section as amended 452
by both Am. Sub. H.B. 2 and Am. Sub. H.B. 64 of the 131st 453
General Assembly. The General Assembly, applying the principle 454
stated in division (B) of section 1.52 of the Revised Code that 455
amendments are to be harmonized if reasonably capable of 456
simultaneous operation, finds that the composite is the 457
resulting version of the section in effect prior to the 458
effective date of the section as presented in this act. 459

Section 5. This act is hereby declared to be an emergency 460
measure necessary for the immediate preservation of the public 461
peace, health, and safety. The reason for such necessity is to 462
ensure that the act's provisions are effective in time for the 463
state report cards for the 2014-2015 school year. Therefore, 464
this act shall go into immediate effect. 465