



# OHIO LEGISLATIVE SERVICE COMMISSION

## Research Memorandum

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September 14, 2018

### LEGISLATIVE HISTORY OF INTERNET- OR COMPUTER-BASED COMMUNITY SCHOOLS (E-SCHOOLS)

This memorandum describes the legislative history of Internet- or computer-based community schools ("e-schools"). It traces the development of the statutory law from its first recognition of the e-school as a distinctive type of community school to the present time and describes substantive changes in the law regarding e-school operations.

#### Introduction (1997-2000)

The establishment of community schools was authorized in 1997 in the general operating budget act for the 1997-1999 biennium. At first, start-up schools (those located in "challenged school districts"<sup>1</sup>) were permitted only in Lucas County as a pilot project. Conversion schools (those created by converting existing schools<sup>2</sup>) were permitted throughout the state.<sup>3</sup> That same year, the law was amended to permit start-up schools in all "Big-Eight" school districts and to permit the State Board of Education to sponsor start-up schools.<sup>4</sup>

The law did not specifically authorize or prohibit the creation of e-schools. In 2000, however, the Electronic Classrooms of Tomorrow (ECOT) began operating in

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<sup>1</sup> A "challenged school district" is any of the following: (1) a "Big-Eight" school district, (2) a poorly performing school district as determined by the school's performance index, value-added progress dimension, or overall score ratings on the state report card, or (3) a school district in the original community school pilot project area (Lucas County) (R.C. 3314.02). The "Big-Eight" districts are Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown.

<sup>2</sup> These schools may be located in any school district in the state and may be sponsored either by the school district in which it is located or by an educational service center.

<sup>3</sup> R.C. Chapter 3314., as enacted by H.B. 215 of the 122nd General Assembly and Section 50.52 of the same act.

<sup>4</sup> S.B. 55 of the 122nd General Assembly.

Ohio as an online community school. Subsequently, other e-schools opened for operation and the General Assembly began enacting legislation that applied specifically to them. Otherwise, most laws that apply to community schools generally also apply to e-schools.<sup>5</sup>

### **H.B. 94 of the 124th General Assembly (effective July 1, 2001)**

In 2001, in the budget act for the 2001-2003 biennium, the General Assembly required the Department of Education to reduce the amounts paid to an e-school that included in its program the provision of computer hardware or software material to each student, if those materials had not been delivered, installed, and activated for all students in a timely manner.<sup>6</sup> This was the first time that the law contemplated the existence of e-schools.

### **H.B. 364 of the 124th General Assembly (effective April 8, 2003)**

In 2002, the General Assembly passed a community school reform act that included some new requirements for e-schools, thus further recognizing their existence and their unique circumstances when compared to brick-and-mortar schools. To aid in implementing these new requirements the General Assembly also defined e-schools for the first time. The act defined the term "Internet- or computer-based community school" as one in which students "work primarily from their residences on assignments provided via an Internet- or other computer-based instructional method that does not rely on regular classroom instruction."<sup>7</sup>

Additionally, the General Assembly enacted the requirement that the contract between the sponsor and the governing authority of an e-school specify that the school must do all of the following:

- (1) Use a hardware filtering device or install filtering software on each computer it provides to students for instructional use that would block Internet access to materials that are considered obscene or harmful to juveniles;

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<sup>5</sup> There are exceptions for certain provisions that apply only to brick-and-mortar schools, such as R.C. 3314.03(A)(11)(h) requiring the display of the state and national mottoes, R.C. 3314.15 regarding location of community schools, R.C. 3314.15 regarding body mass index screening, R.C. 3314.16 permitting placement of automated external defibrillators in community schools, and R.C. 3314.18 regarding school lunch and breakfast programs.

<sup>6</sup> R.C. 3314.08(N), as amended by H.B. 94.

<sup>7</sup> R.C. 3314.02(A), as amended by H.B. 364.

- (2) Make the device or software available at no charge to students who use a computer at home obtained from a source other than the school; and
- (3) Develop a plan to fulfill the General Assembly's intent that teachers employed by e-schools conduct visits with their students in person throughout the school year.<sup>8</sup>

The act provided that each child enrolled in an e-school is entitled to a computer supplied by the school and that, if more than one child living in a single household is enrolled in the school, at the option of the parent of these children, the school may supply less than one computer per child, as long as at least one computer is supplied to the household.<sup>9</sup> If a school fails to provide a student with a computer in the prescribed manner, the school may not count that student as "enrolled" for purposes of receiving state moneys for that student.<sup>10</sup>

Finally, the act prohibited the establishment of a conversion community school as an e-school, but that provision was summarily repealed by a subsequent act.<sup>11</sup>

### **H.B. 95 of the 125th General Assembly (effective September 26, 2003)**

In 2003, the budget act for the 2003-2005 biennium made a few adjustments to the law regarding e-schools. First, it added to the definition of the term "Internet- or computer-based community school" by specifying that the students' assignments are "in nonclassroom-based learning opportunities." It also added that instruction at an e-school must include Internet-based, other computer-based, and noncomputer-based learning opportunities.<sup>12</sup>

Second, the act specified that an e-school student is considered enrolled for the purpose of funding when the school has provided the student with "operational"

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<sup>8</sup> R.C. 3314.21(C), which was originally enacted as R.C. 3314.021(C) by H.B. 364.

<sup>9</sup> R.C. 3314.22(A), which was originally enacted as R.C. 3314.032 by H.B. 364.

<sup>10</sup> R.C. 3314.08(J), which was originally enacted as R.C. 3314.08(N) by H.B. 94 of the 124th General Assembly and subsequently amended by H.B. 364 of the 124th General Assembly.

<sup>11</sup> R.C. 3314.02(B), as amended by H.B. 364 of the 124th General Assembly, which amendment was repealed by S.B. 12 of the 125th General Assembly on the same effective date of H.B. 364. See also Sections 4 and 5 of S.B. 12.

<sup>12</sup> R.C. 3314.02(A), as amended by H.B. 95.

hardware and software necessary to enable the student to participate fully in the learning opportunities prescribed in the school's contract with its sponsor.<sup>13</sup>

### **S.B. 2 of the 125th General Assembly (effective June 9, 2004)**

In 2004, as part of an act devoted mostly to teacher quality provisions, the General Assembly prohibited any e-schools from contracting with a nonpublic school for rent or use of facility space for the provision of instructional services to students enrolled in the e-school.<sup>14</sup>

### **H.B. 66 of the 126th General Assembly (effective June 30, 2005)**

In 2005, the budget act for the 2005-2007 biennium prohibited any entity from sponsoring a new start-up or conversion e-school between May 1, 2005, and the effective date of any standards enacted by the General Assembly governing the operation of e-schools.<sup>15</sup> This effectively put in place a moratorium on the establishment of new e-schools that lasted until 2013 (see **H.B. 153** below). It did not limit enrollment in any of the exiting e-schools.

This act also, for the first time, limited the types of payments that could be deducted from the state aid account of a school district and paid to an e-school for a student who attends the e-school but resides in that district. Under the act, the only payments that could be deducted and transferred were the base payment and the special education payment for the student.<sup>16</sup> Subsequent school funding formulas made similar limitations to the payments that e-schools may receive (see **H.B. 59** below for a discussion of the current school funding formula's provisions regarding payments for e-schools).

Finally, the act enacted several new operating requirements for e-schools, as follows:

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<sup>13</sup> R.C. 3314.08(N), as amended by H.B. 95. (This provision is currently in R.C. 3314.08(J).)

<sup>14</sup> R.C. 3314.24, which was originally enacted as R.C. 3314.034 by S.B. 2 of the 125th General Assembly.

<sup>15</sup> R.C. 3314.013(A)(6) and (7), as amended by H.B. 66.

<sup>16</sup> R.C. 3314.08(C) and (D), as amended by H.B. 66.

- (1) An e-school student may not spend more than ten hours within a 24-hour period participating in learning opportunities;<sup>17</sup>
- (2) Each e-school must retain an affiliation with at least one full-time teacher licensed by the State Board;
- (3) Each student enrolled in an e-school must be assigned to at least one teacher of record;
- (4) No teacher of record employed may be primarily responsible for more than 125 students;<sup>18</sup>
- (5) Each e-school must provide a location within 50 miles of a student's residence at which the student can take the state achievement tests and diagnostic assessments;<sup>19</sup>
- (6) An e-school must withdraw any student who fails to participate in required state achievement assessments for two consecutive school years;<sup>20</sup> and
- (7) Each e-school must submit to its sponsor an annual plan for the provision of special education and related services to disabled students.<sup>21</sup>

### **H.B. 153 of the 129th General Assembly (effective September 29, 2011)**

In 2011, the budget act for the 2011-2013 biennium provided for the termination of the moratorium on the establishment of new e-schools on January 1, 2013, and limited to five per year the number of new e-schools that may open.<sup>22</sup>

The act also required all e-schools to comply with the operational standards developed by the International Association for K-12 Online Learning or alternative

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<sup>17</sup> R.C. 3314.27.

<sup>18</sup> Items 2, 3, and 4 are in R.C. 3314.21(B)(2) and (3).

<sup>19</sup> R.C. 3314.25.

<sup>20</sup> R.C. 3314.26.

<sup>21</sup> R.C. 3314.28.

<sup>22</sup> R.C. 3314.013, as amended by H.B. 153.

standards adopted by the General Assembly, if such standards were enacted by January 1, 2013.<sup>23</sup> The General Assembly did not enact alternative operating standards.

### **H.B. 555 of the 129th General Assembly (effective March 22, 2013)**

The act delayed the termination of the moratorium on the establishment of new e-schools from January 1, 2013, to July 1, 2013, to accommodate the development and adoption of standards under the act's provisions for the approval of new e-schools.<sup>24</sup> These standards, which the act required the State Board to adopt in rules that took effect not later than the 61st day after the act's effective date, prescribe measures to determine the experience and quality of applicants to operate e-schools. The measures include (1) the sponsor's and operator's experience with online schools, (2) the sponsor's and operator's previous record for student performance, and (3) a preference for operators with previous experience in Ohio. The Superintendent must approve applications from only those applicants demonstrating experience and quality in accordance with the State Board's standards.<sup>25</sup>

### **H.B. 59 of the 130th General Assembly (effective September 29, 2013)**

In 2013, as part of the budget act for the 2013-2015 biennium, the General Assembly enacted a provision that limits the enrollment year-by-year for an e-school based on the size of the previous year's enrollment. It also limited new e-schools that open after September 29, 2013, to an enrollment of 1,000 students for the first year and applies the act's annual enrollment increases to subsequent years.<sup>26</sup>

The act also enacted the current school funding formula. As part of that formula the act limited the payments to an e-school (and the corresponding deductions from a student's resident school district) to (1) the base payment, (2) the special education

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<sup>23</sup> R.C. 3314.23, as enacted by H.B. 153. The act also required the Superintendent of Public Instruction and the Director of the Governor's Office of 21st Century Education, by July 1, 2012, to develop operational standards for e-schools and to submit them to the General Assembly for possible enactment (R.C. 3314.013(D)). Earlier, the State Board had been required to submit recommended standards by September 30, 2003 (R.C. 3314.033, as enacted by H.B. 3 of the 125th General Assembly, effective August 16, 2003).

<sup>24</sup> R.C. 3314.013, as amended by H.B. 555.

<sup>25</sup> R.C. 3314.013(B)(1) and (2), as amended by H.B. 555.

<sup>26</sup> R.C. 3314.20, as enacted by H.B. 59.

payment for the student, and (3) the career-technical education payment for the student.<sup>27</sup>

### **H.B. 64 of the 131st General Assembly (effective September 29, 2015)**

The budget act for the 2015-2017 biennium amended the definition of "Internet- or computer-based community school" to clarify that e-schools with career-technical programs may have some classroom-based programming.<sup>28</sup>

It also amended the current school funding formula to permit e-schools to receive the following bonus payments based on student performance:

- (1) A "graduation bonus" that is based on how many students graduate from the school, as indicated on the school's most recent report card;
- (2) A "third-grade reading bonus" that is based on how many of the school's third grade students score at a proficient level of skill or higher on the school's most recent administration of the English language arts assessment.<sup>29</sup>

### **H.B. 2 of the 131st General Assembly (effective February 1, 2016)**

H.B. 2 reformed the law regarding the governance, sponsorship, and management of community schools, including several new e-school provisions, as follows:

- (1) Each e-school must keep an accurate daily record of each individual student's participation in learning opportunities;<sup>30</sup>
- (2) Each e-school must offer a student orientation course and notify each student of that offering;

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<sup>27</sup> R.C. 3314.08(C)(2), as amended by H.B. 59. The formula was subsequently amended by H.B. 64 of the 131st General Assembly but no changes were made to this particular provision. See also R.C. 3314.086, as enacted by H.B. 59, which expressly permits e-schools to provide career-technical education.

<sup>28</sup> R.C. 3314.02(A), as amended by H.B. 64.

<sup>29</sup> R.C. 3314.085(B), as enacted by H.B. 64. These bonuses are available to all public schools.

<sup>30</sup> R.C. 3314.27, as amended by H.B. 2.

- (3) Each e-school, on a periodic basis throughout each school year, must communicate with each student's parent, guardian, or custodian regarding the student's performance and progress;
- (4) Each e-school must provide opportunities for parent-teacher conferences; and
- (5) An e-school may ask a student's parent, guardian, or custodian to estimate the length of time the student will attend the school.<sup>31</sup>

### **H.B. 49 of the 132nd General Assembly (effective September 29, 2017)**

The budget act for the 2017-2019 biennium authorized the governing authority of an e-school that serves all of grades K-12, has an enrollment of at least 2,000 students, and has a sponsor rated "effective" or higher to adopt a resolution to divide the e-school into two or three separate e-schools, beginning with the 2018-2019 school year. Each divided e-school and each resulting school: (1) must have the same governing authority, (2) may not operate as a dropout prevention and recovery program, and (3) may not divide again. The Department must issue a separate state report card for each resulting e-school, which must count toward closure of the school and any other matter based on report card ratings or measures without the two-year grace period that applies to other new community schools.<sup>32</sup>

Additionally, the act specified that, for purposes of the requirement that an e-school withdraw a student for failure to participate in the administration of state assessments for two consecutive years, the consecutive years are of a student's enrollment in that particular school.<sup>33</sup>

### **S.B. 216 of the 132nd General Assembly (effective November 2, 2018)**

The act required the Superintendent of Public Instruction, by November 30, 2018, to recommend to the Joint Education Oversight Committee definitions of the following terms that the Department uses in its manual for determining full-time equivalency for e-school students: "documentation of online learning," "idle time," "educational," "noneducational," "participation," and "classroom." The Committee must conduct at

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<sup>31</sup> Items 2-5 are in R.C. 3314.271 as enacted by H.B. 2.

<sup>32</sup> R.C. 3314.29, as enacted by H.B. 49.

<sup>33</sup> R.C. 3314.26, as amended by H.B. 49.

least one hearing on the Superintendent's recommendations, and it may make its own recommendations by December 31, 2018.<sup>34</sup>

The act also created a legislative committee to study and report on specific recommendations regarding (1) a payment system for e-schools based on a student's demonstration of competency of subject matter, in addition to, or instead of, full-time enrollment in coursework and log-on and log-off times, and (2) the categories of expenses for which an operator must provide a detailed accounting under continuing law. The committee must submit its recommendations to the General Assembly by November 15, 2018.<sup>35</sup>

Finally, the act created the following temporary exemptions from specified laws for e-schools and all other community schools<sup>36</sup> that enrolled significant numbers of students displaced by an e-school that was suspended by its sponsor in the 2017-2018 school year:

- (1) For community school sponsor evaluations for the 2017-2018 and 2018-2019 school years, those displaced enrollees are excluded from the e-schools in a sponsor's portfolio when calculating the academic performance component of the sponsor's evaluation;<sup>37</sup>
- (2) An e-school is exempted from mandatory closure based on poor performance two out of three years, as required under continuing law,<sup>38</sup> in the 2017-2018 through 2019-2020 school years, if the school's enrollment increased by more than 10% in the 2017-2018 school year due to displaced enrollees. However, if the school meets the conditions for closure for three consecutive years, it still must close.<sup>39</sup> This provision was amended by H.B. 87 of the 132nd General Assembly (see **H.B. 87**, below).

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<sup>34</sup> R.C. 3314.231, as enacted by S.B. 216.

<sup>35</sup> Section 10 of S.B. 216.

<sup>36</sup> For school districts that enroll these students and meet a certain threshold of enrollment increase, S.B. 216 also created an exemption for the 2018-2019 and 2019-2020 school years from being considered a new challenged school district, where new start-up community schools may be located under continuing law (Section 11(C) of S.B. 216). This provision was amended by H.B. 87 of the 132nd General Assembly to increase the enrollment increase threshold.

<sup>37</sup> Section 11(B)(1) of S.B. 216.

<sup>38</sup> R.C. 3314.35.

<sup>39</sup> Section 11(B)(2) of S.B. 216.

## **H.B. 87 of the 132nd General Assembly (effective November 2, 2018)**

The act required the Superintendent of Public Instruction to establish standards for learning management software to be used by e-schools.<sup>40</sup> Learning management software is an application for the administration, documentation, tracking, reporting, and delivery of educational courses or training programs.

The act also required that the state Superintendent consult with the Auditor of State when adopting policies under which the Department must reduce the amounts otherwise payable to an e-school if it does not timely install, deliver, and activate a student's computer hardware and software.<sup>41</sup>

Finally, the act amended the provision of S.B. 216 that exempted an e-school from mandatory closure based on poor performance two out of three years, as required under continuing law, in the 2017-2018 through 2019-2020 school years to specify that this provision applies only if the e-school's enrollment increases by 20% due to displaced enrollees (rather than 10% as under S.B. 216). Furthermore, it stipulated that if the scores of displaced enrollees are omitted from the e-school's report card calculations, and the e-school still meets the conditions for closure for two out of three years, the e-school must close.<sup>42</sup>

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<sup>40</sup> R.C. 3314.232, as enacted by H.B. 87.

<sup>41</sup> R.C. 3314.08(J)(2), as amended by H.B. 87.

<sup>42</sup> Section 3 of H.B. 87, amending Section 11(B)(2) of S.B. 216. These changes apply to all community schools that are subject to the provision.