

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 221**

**Representatives Ruhl, Ashford**

**Cosponsors: Representatives Antonio, Bishoff, Brenner, Lepore-Hagan, Smith, K.**

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**A BILL**

To amend sections 3313.751, 3314.03, 3326.11, and 1  
3328.24 of the Revised Code to revise the law 2  
regarding tobacco and nicotine use in public 3  
schools and at public school-sponsored 4  
functions. 5

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

**Section 1.** That sections 3313.751, 3314.03, 3326.11, and 6  
3328.24 of the Revised Code be amended to read as follows: 7

**Sec. 3313.751.** (A) As used in this section: 8

(1) "School district" means a city, local, exempted 9  
village, or joint vocational school district. 10

(2) "Smoke" means to burn any substance containing 11  
tobacco, including a lighted cigarette, cigar, or pipe, or to 12  
burn a clove cigarette. 13

(3) "Use tobacco" means to chew or maintain any substance 14  
containing tobacco or any substance derived from tobacco, 15  
including smokeless tobacco, in the mouth to derive the effects 16  
of tobacco. 17

(4) "Use nicotine" means to maintain any substance 18  
containing nicotine or a similar substance intended for human 19  
consumption or consume nicotine or similar substance, whether by 20  
means of smoking, heating, chewing, absorbing, dissolving, or 21  
ingesting by any other means. 22

(B) (1) No pupil-person shall smoke or use tobacco or 23  
possess any substance containing tobacco in any area under the 24  
control of a school district or an educational service center, 25  
including any outdoor facilities, or at any activity supervised 26  
by any school operated by a school district or an educational 27  
service center. 28

(2) No person shall use nicotine or possess any substance 29  
containing nicotine in any area under the control of a school 30  
district or an educational service center, including any outdoor 31  
facilities, or at any activity supervised by any school operated 32  
by a school district or an educational service center. 33

(C) The board of education of each school district and the 34  
governing board of each educational service center shall adopt a 35  
policy providing for the enforcement of division (B) of this 36  
section ~~and~~ against all persons. 37

(D) The board of education of each school district and the 38  
governing board of each educational service center shall adopt a 39  
policy establishing disciplinary measures for a violation of 40  
students who violate division (B) of this section. 41

**Sec. 3314.03.** A copy of every contract entered into under 42  
this section shall be filed with the superintendent of public 43  
instruction. The department of education shall make available on 44  
its web site a copy of every approved, executed contract filed 45  
with the superintendent under this section. 46

(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 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.	75 76
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	77 78
(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.	79 80 81 82 83 84
(9) The facilities to be used and their locations;	85
(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.	86 87 88 89 90 91
(11) That the school will comply with the following requirements:	92 93
(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.	94 95 96
(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.	97 98 99
(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	100 101 102

religious institution. 103

(d) The school will comply with sections 9.90, 9.91, 104  
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 105  
3301.0711, 3301.0712, 3301.0715, 3301.948, 3313.472, 3313.50, 106  
3313.536, 3313.539, 3313.608, 3313.609, 3313.6012, 3313.6013, 107  
3313.6014, 3313.6015, 3313.6020, 3313.643, 3313.648, 3313.6411, 108  
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 109  
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 110  
3313.718, 3313.719, 3313.7112, 3313.751, 3313.80, 3313.814, 111  
3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 112  
3319.321, 3319.39, 3319.391, 3319.41, 3319.46, 3321.01, 113  
3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 114  
3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 115  
1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of 116  
the Revised Code as if it were a school district and will comply 117  
with section 3301.0714 of the Revised Code in the manner 118  
specified in section 3314.17 of the Revised Code. 119

(e) The school shall comply with Chapter 102. and section 120  
2921.42 of the Revised Code. 121

(f) The school will comply with sections 3313.61, 122  
3313.611, and 3313.614 of the Revised Code, except that for 123  
students who enter ninth grade for the first time before July 1, 124  
2010, the requirement in sections 3313.61 and 3313.611 of the 125  
Revised Code that a person must successfully complete the 126  
curriculum in any high school prior to receiving a high school 127  
diploma may be met by completing the curriculum adopted by the 128  
governing authority of the community school rather than the 129  
curriculum specified in Title XXXVIII of the Revised Code or any 130  
rules of the state board of education. Beginning with students 131  
who enter ninth grade for the first time on or after July 1, 132

2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the requirements prescribed in division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, adopted by the state board of education under division (J) of section 3313.603 of the Revised Code.

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

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

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

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

(13) The length of the contract, which shall begin at the

beginning of an academic year. No contract shall exceed five 162  
years unless such contract has been renewed pursuant to division 163  
(E) of this section. 164

(14) The governing authority of the school, which shall be 165  
responsible for carrying out the provisions of the contract; 166

(15) A financial plan detailing an estimated school budget 167  
for each year of the period of the contract and specifying the 168  
total estimated per pupil expenditure amount for each such year. 169

(16) Requirements and procedures regarding the disposition 170  
of employees of the school in the event the contract is 171  
terminated or not renewed pursuant to section 3314.07 of the 172  
Revised Code; 173

(17) Whether the school is to be created by converting all 174  
or part of an existing public school or educational service 175  
center building or is to be a new start-up school, and if it is 176  
a converted public school or service center building, 177  
specification of any duties or responsibilities of an employer 178  
that the board of education or service center governing board 179  
that operated the school or building before conversion is 180  
delegating to the governing authority of the community school 181  
with respect to all or any specified group of employees provided 182  
the delegation is not prohibited by a collective bargaining 183  
agreement applicable to such employees; 184

(18) Provisions establishing procedures for resolving 185  
disputes or differences of opinion between the sponsor and the 186  
governing authority of the community school; 187

(19) A provision requiring the governing authority to 188  
adopt a policy regarding the admission of students who reside 189  
outside the district in which the school is located. That policy 190

shall comply with the admissions procedures specified in 191  
sections 3314.06 and 3314.061 of the Revised Code and, at the 192  
sole discretion of the authority, shall do one of the following: 193

(a) Prohibit the enrollment of students who reside outside 194  
the district in which the school is located; 195

(b) Permit the enrollment of students who reside in 196  
districts adjacent to the district in which the school is 197  
located; 198

(c) Permit the enrollment of students who reside in any 199  
other district in the state. 200

(20) A provision recognizing the authority of the 201  
department of education to take over the sponsorship of the 202  
school in accordance with the provisions of division (C) of 203  
section 3314.015 of the Revised Code; 204

(21) A provision recognizing the sponsor's authority to 205  
assume the operation of a school under the conditions specified 206  
in division (B) of section 3314.073 of the Revised Code; 207

(22) A provision recognizing both of the following: 208

(a) The authority of public health and safety officials to 209  
inspect the facilities of the school and to order the facilities 210  
closed if those officials find that the facilities are not in 211  
compliance with health and safety laws and regulations; 212

(b) The authority of the department of education as the 213  
community school oversight body to suspend the operation of the 214  
school under section 3314.072 of the Revised Code if the 215  
department has evidence of conditions or violations of law at 216  
the school that pose an imminent danger to the health and safety 217  
of the school's students and employees and the sponsor refuses 218

to take such action. 219

(23) A description of the learning opportunities that will 220  
be offered to students including both classroom-based and non- 221  
classroom-based learning opportunities that is in compliance 222  
with criteria for student participation established by the 223  
department under division (H) (2) of section 3314.08 of the 224  
Revised Code; 225

(24) The school will comply with sections 3302.04 and 226  
3302.041 of the Revised Code, except that any action required to 227  
be taken by a school district pursuant to those sections shall 228  
be taken by the sponsor of the school. However, the sponsor 229  
shall not be required to take any action described in division 230  
(F) of section 3302.04 of the Revised Code. 231

(25) Beginning in the 2006-2007 school year, the school 232  
will open for operation not later than the thirtieth day of 233  
September each school year, unless the mission of the school as 234  
specified under division (A) (2) of this section is solely to 235  
serve dropouts. In its initial year of operation, if the school 236  
fails to open by the thirtieth day of September, or within one 237  
year after the adoption of the contract pursuant to division (D) 238  
of section 3314.02 of the Revised Code if the mission of the 239  
school is solely to serve dropouts, the contract shall be void. 240

(26) Whether the school's governing authority is planning 241  
to seek designation for the school as a STEM school equivalent 242  
under section 3326.032 of the Revised Code. 243

(B) The community school shall also submit to the sponsor 244  
a comprehensive plan for the school. The plan shall specify the 245  
following: 246

(1) The process by which the governing authority of the 247

school will be selected in the future;	248
(2) The management and administration of the school;	249
(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;	250 251 252 253 254
(4) The instructional program and educational philosophy of the school;	255 256
(5) Internal financial controls.	257
(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.	258 259 260 261 262 263 264 265 266 267
(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:	268 269 270 271 272
(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;	273 274 275

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;	276 277 278
(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;	279 280 281 282
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	283 284 285
(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;	286 287 288 289 290 291 292
(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.	293 294 295
(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	296 297 298 299 300 301 302 303 304

remains subject to the provisions of sections 3314.07, 3314.072, 305  
and 3314.073 of the Revised Code. 306

(F) If a community school fails to open for operation 307  
within one year after the contract entered into under this 308  
section is adopted pursuant to division (D) of section 3314.02 309  
of the Revised Code or permanently closes prior to the 310  
expiration of the contract, the contract shall be void and the 311  
school shall not enter into a contract with any other sponsor. A 312  
school shall not be considered permanently closed because the 313  
operations of the school have been suspended pursuant to section 314  
3314.072 of the Revised Code. 315

**Sec. 3326.11.** Each science, technology, engineering, and 316  
mathematics school established under this chapter and its 317  
governing body shall comply with sections 9.90, 9.91, 109.65, 318  
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 319  
3301.0714, 3301.0715, 3301.948, 3313.14, 3313.15, 3313.16, 320  
3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 321  
3313.482, 3313.50, 3313.536, 3313.539, 3313.608, 3313.6012, 322  
3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.61, 3313.611, 323  
3313.614, 3313.615, 3313.643, 3313.648, 3313.6411, 3313.66, 324  
3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 325  
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 326  
3313.719, 3313.7112, 3313.751, 3313.80, 3313.801, 3313.814, 327  
3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 328  
3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 329  
3319.45, 3319.46, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 330  
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 331  
5705.391 and Chapters 102., 117., 1347., 2744., 3307., 3309., 332  
3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code 333  
as if it were a school district. 334

**Sec. 3328.24.** A college-preparatory boarding school 335  
established under this chapter and its board of trustees shall 336  
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 337  
3301.0714, 3301.948, 3313.536, 3313.6013, 3313.6411, 3313.7112, 338  
3313.751, 3313.89, 3319.39, 3319.391, and 3319.46 and Chapter 339  
3365. of the Revised Code as if the school were a school 340  
district and the school's board of trustees were a district 341  
board of education. 342

**Section 2.** That existing sections 3313.751, 3314.03, 343  
3326.11, and 3328.24 of the Revised Code are hereby repealed. 344