

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 346

**Senator Manning
Cosponsor: Senator Patton**

A BILL

To amend sections 3314.03, 3317.01, 3326.11, and 1
3328.24 and to enact section 3313.621 of the 2
Revised Code to generally require public and 3
chartered nonpublic schools to open for 4
instruction after Labor Day. 5

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

Section 1. That sections 3314.03, 3317.01, 3326.11, and 6
3328.24 be amended and section 3313.621 of the Revised Code be 7
enacted to read as follows: 8

Sec. 3313.621. This section does not apply to any school 9
that meets the requirement of section 3313.48 of the Revised 10
Code regarding the yearly minimum number of days or hours it 11
must be open for instruction by requiring students to be in 12
attendance throughout the entire school year, including summer 13
but excluding authorized breaks. 14

(A) Beginning in the 2017-2018 school year, except as 15
provided in division (B) or (D) of this section, the board of 16
education of each city, exempted village, local, or joint 17
vocational school district and the governing body of each 18

chartered nonpublic school shall open its schools for 19
instruction with students in attendance after Labor day in any 20
school year. Workshops, orientation, or other activities in 21
preparation for the opening of school may be held prior to Labor 22
day for teachers, nonteaching employees, or administrators. 23

(B) If a board of education or governing body determines 24
that it is in the best interest of the school, a board or 25
governing body may adopt a resolution that permits a school 26
under its control to open prior to Labor day in any school year. 27

Not later than thirty days prior to adopting such a 28
resolution, the board of education of a city, exempted village, 29
and local school district shall hold a public hearing on the 30
school calendar, addressing opening a school under its control 31
prior to Labor day. 32

(C) Nothing in this section shall be construed to prohibit 33
a school district or chartered nonpublic school from operating a 34
summer school program. 35

(D) Any board of education of a school district that, 36
prior to the effective date of this section, entered into a 37
collective bargaining agreement under Chapter 4117. of the 38
Revised Code that establishes a date prior to Labor day on which 39
the schools of the district will open for instruction with 40
students in attendance shall not be required to comply with this 41
section until the expiration of that agreement. Each collective 42
bargaining agreement entered into or renewed on or after the 43
effective date of this section shall comply with this section. 44

Sec. 3314.03. A copy of every contract entered into under 45
this section shall be filed with the superintendent of public 46
instruction. The department of education shall make available on 47

its web site a copy of every approved, executed contract filed 48
with the superintendent under this section. 49

(A) Each contract entered into between a sponsor and the 50
governing authority of a community school shall specify the 51
following: 52

(1) That the school shall be established as either of the 53
following: 54

(a) A nonprofit corporation established under Chapter 55
1702. of the Revised Code, if established prior to April 8, 56
2003; 57

(b) A public benefit corporation established under Chapter 58
1702. of the Revised Code, if established after April 8, 2003. 59

(2) The education program of the school, including the 60
school's mission, the characteristics of the students the school 61
is expected to attract, the ages and grades of students, and the 62
focus of the curriculum; 63

(3) The academic goals to be achieved and the method of 64
measurement that will be used to determine progress toward those 65
goals, which shall include the statewide achievement 66
assessments; 67

(4) Performance standards, including but not limited to 68
all applicable report card measures set forth in section 3302.03 69
or 3314.017 of the Revised Code, by which the success of the 70
school will be evaluated by the sponsor; 71

(5) The admission standards of section 3314.06 of the 72
Revised Code and, if applicable, section 3314.061 of the Revised 73
Code; 74

(6) (a) Dismissal procedures; 75

(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.	76 77 78 79 80 81
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	82 83
(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.	84 85 86 87 88 89
(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:	90 91
(a) A detailed description of each facility used for instructional purposes;	92 93
(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;	94 95
(c) The annual mortgage principal and interest payments that are paid by the school;	96 97
(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.	98 99 100
(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	101 102 103

that a community school may engage noncertificated persons to 104
teach up to twelve hours per week pursuant to section 3319.301 105
of the Revised Code. 106

(11) That the school will comply with the following 107
requirements: 108

(a) The school will provide learning opportunities to a 109
minimum of twenty-five students for a minimum of nine hundred 110
twenty hours per school year. 111

(b) The governing authority will purchase liability 112
insurance, or otherwise provide for the potential liability of 113
the school. 114

(c) The school will be nonsectarian in its programs, 115
admission policies, employment practices, and all other 116
operations, and will not be operated by a sectarian school or 117
religious institution. 118

(d) The school will comply with sections 9.90, 9.91, 119
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 120
3301.0711, 3301.0712, 3301.0715, 3301.948, 3313.472, 3313.50, 121
3313.536, 3313.539, 3313.608, 3313.609, 3313.6012, 3313.6013, 122
3313.6014, 3313.6015, 3313.6020, 3313.621, 3313.643, 3313.648, 123
3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 124
3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 125
3313.716, 3313.718, 3313.719, 3313.7112, 3313.721, 3313.80, 126
3313.814, 3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 127
3319.073, 3319.321, 3319.39, 3319.391, 3319.41, 3319.46, 128
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 129
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 130
117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. 131
of the Revised Code as if it were a school district and will 132

comply with section 3301.0714 of the Revised Code in the manner 133
specified in section 3314.17 of the Revised Code. 134

(e) The school shall comply with Chapter 102. and section 135
2921.42 of the Revised Code. 136

(f) The school will comply with sections 3313.61, 137
3313.611, and 3313.614 of the Revised Code, except that for 138
students who enter ninth grade for the first time before July 1, 139
2010, the requirement in sections 3313.61 and 3313.611 of the 140
Revised Code that a person must successfully complete the 141
curriculum in any high school prior to receiving a high school 142
diploma may be met by completing the curriculum adopted by the 143
governing authority of the community school rather than the 144
curriculum specified in Title XXXVIII of the Revised Code or any 145
rules of the state board of education. Beginning with students 146
who enter ninth grade for the first time on or after July 1, 147
2010, the requirement in sections 3313.61 and 3313.611 of the 148
Revised Code that a person must successfully complete the 149
curriculum of a high school prior to receiving a high school 150
diploma shall be met by completing the requirements prescribed 151
in division (C) of section 3313.603 of the Revised Code, unless 152
the person qualifies under division (D) or (F) of that section. 153
Each school shall comply with the plan for awarding high school 154
credit based on demonstration of subject area competency, and 155
beginning with the 2016-2017 school year, with the updated plan 156
that permits students enrolled in seventh and eighth grade to 157
meet curriculum requirements based on subject area competency 158
adopted by the state board of education under divisions (J) (1) 159
and (2) of section 3313.603 of the Revised Code. 160

(g) The school governing authority will submit within four 161
months after the end of each school year a report of its 162

activities and progress in meeting the goals and standards of 163
divisions (A) (3) and (4) of this section and its financial 164
status to the sponsor and the parents of all students enrolled 165
in the school. 166

(h) The school, unless it is an internet- or computer- 167
based community school, will comply with section 3313.801 of the 168
Revised Code as if it were a school district. 169

(i) If the school is the recipient of moneys from a grant 170
awarded under the federal race to the top program, Division (A), 171
Title XIV, Sections 14005 and 14006 of the "American Recovery 172
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 173
the school will pay teachers based upon performance in 174
accordance with section 3317.141 and will comply with section 175
3319.111 of the Revised Code as if it were a school district. 176

(j) If the school operates a preschool program that is 177
licensed by the department of education under sections 3301.52 178
to 3301.59 of the Revised Code, the school shall comply with 179
sections 3301.50 to 3301.59 of the Revised Code and the minimum 180
standards for preschool programs prescribed in rules adopted by 181
the state board under section 3301.53 of the Revised Code. 182

(12) Arrangements for providing health and other benefits 183
to employees; 184

(13) The length of the contract, which shall begin at the 185
beginning of an academic year. No contract shall exceed five 186
years unless such contract has been renewed pursuant to division 187
(E) of this section. 188

(14) The governing authority of the school, which shall be 189
responsible for carrying out the provisions of the contract; 190

(15) A financial plan detailing an estimated school budget 191

for each year of the period of the contract and specifying the 192
total estimated per pupil expenditure amount for each such year. 193

(16) Requirements and procedures regarding the disposition 194
of employees of the school in the event the contract is 195
terminated or not renewed pursuant to section 3314.07 of the 196
Revised Code; 197

(17) Whether the school is to be created by converting all 198
or part of an existing public school or educational service 199
center building or is to be a new start-up school, and if it is 200
a converted public school or service center building, 201
specification of any duties or responsibilities of an employer 202
that the board of education or service center governing board 203
that operated the school or building before conversion is 204
delegating to the governing authority of the community school 205
with respect to all or any specified group of employees provided 206
the delegation is not prohibited by a collective bargaining 207
agreement applicable to such employees; 208

(18) Provisions establishing procedures for resolving 209
disputes or differences of opinion between the sponsor and the 210
governing authority of the community school; 211

(19) A provision requiring the governing authority to 212
adopt a policy regarding the admission of students who reside 213
outside the district in which the school is located. That policy 214
shall comply with the admissions procedures specified in 215
sections 3314.06 and 3314.061 of the Revised Code and, at the 216
sole discretion of the authority, shall do one of the following: 217

(a) Prohibit the enrollment of students who reside outside 218
the district in which the school is located; 219

(b) Permit the enrollment of students who reside in 220

districts adjacent to the district in which the school is	221
located;	222
(c) Permit the enrollment of students who reside in any	223
other district in the state.	224
(20) A provision recognizing the authority of the	225
department of education to take over the sponsorship of the	226
school in accordance with the provisions of division (C) of	227
section 3314.015 of the Revised Code;	228
(21) A provision recognizing the sponsor's authority to	229
assume the operation of a school under the conditions specified	230
in division (B) of section 3314.073 of the Revised Code;	231
(22) A provision recognizing both of the following:	232
(a) The authority of public health and safety officials to	233
inspect the facilities of the school and to order the facilities	234
closed if those officials find that the facilities are not in	235
compliance with health and safety laws and regulations;	236
(b) The authority of the department of education as the	237
community school oversight body to suspend the operation of the	238
school under section 3314.072 of the Revised Code if the	239
department has evidence of conditions or violations of law at	240
the school that pose an imminent danger to the health and safety	241
of the school's students and employees and the sponsor refuses	242
to take such action.	243
(23) A description of the learning opportunities that will	244
be offered to students including both classroom-based and non-	245
classroom-based learning opportunities that is in compliance	246
with criteria for student participation established by the	247
department under division (H) (2) of section 3314.08 of the	248
Revised Code;	249

(24) The school will comply with sections 3302.04 and 250
3302.041 of the Revised Code, except that any action required to 251
be taken by a school district pursuant to those sections shall 252
be taken by the sponsor of the school. However, the sponsor 253
shall not be required to take any action described in division 254
(F) of section 3302.04 of the Revised Code. 255

(25) Beginning in the 2006-2007 school year, the school 256
will open for operation not later than the thirtieth day of 257
September each school year, unless the mission of the school as 258
specified under division (A)(2) of this section is solely to 259
serve dropouts. In its initial year of operation, if the school 260
fails to open by the thirtieth day of September, or within one 261
year after the adoption of the contract pursuant to division (D) 262
of section 3314.02 of the Revised Code if the mission of the 263
school is solely to serve dropouts, the contract shall be void. 264

(26) Whether the school's governing authority is planning 265
to seek designation for the school as a STEM school equivalent 266
under section 3326.032 of the Revised Code; 267

(27) That the school's attendance and participation 268
policies will be available for public inspection; 269

(28) That the school's attendance and participation 270
records shall be made available to the department of education, 271
auditor of state, and school's sponsor to the extent permitted 272
under and in accordance with the "Family Educational Rights and 273
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, 274
and any regulations promulgated under that act, and section 275
3319.321 of the Revised Code; 276

(29) If a school operates using the blended learning 277
model, as defined in section 3301.079 of the Revised Code, all 278

of the following information:	279
(a) An indication of what blended learning model or models will be used;	280 281
(b) A description of how student instructional needs will be determined and documented;	282 283
(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;	284 285
(d) The school's attendance requirements, including how the school will document participation in learning opportunities;	286 287 288
(e) A statement describing how student progress will be monitored;	289 290
(f) A statement describing how private student data will be protected;	291 292
(g) A description of the professional development activities that will be offered to teachers.	293 294
(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;	295 296 297 298
(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.	299 300 301 302 303
(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the	304 305

following:	306
(1) The process by which the governing authority of the school will be selected in the future;	307 308
(2) The management and administration of the school;	309
(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;	310 311 312 313 314
(4) The instructional program and educational philosophy of the school;	315 316
(5) Internal financial controls.	317
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.	318 319 320 321
(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.	322 323 324 325 326 327 328 329 330 331
(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered	332 333

into with the department of education under division (B) of 334
section 3314.015 of the Revised Code and shall include the 335
following: 336

(1) Monitor the community school's compliance with all 337
laws applicable to the school and with the terms of the 338
contract; 339

(2) Monitor and evaluate the academic and fiscal 340
performance and the organization and operation of the community 341
school on at least an annual basis; 342

(3) Report on an annual basis the results of the 343
evaluation conducted under division (D) (2) of this section to 344
the department of education and to the parents of students 345
enrolled in the community school; 346

(4) Provide technical assistance to the community school 347
in complying with laws applicable to the school and terms of the 348
contract; 349

(5) Take steps to intervene in the school's operation to 350
correct problems in the school's overall performance, declare 351
the school to be on probationary status pursuant to section 352
3314.073 of the Revised Code, suspend the operation of the 353
school pursuant to section 3314.072 of the Revised Code, or 354
terminate the contract of the school pursuant to section 3314.07 355
of the Revised Code as determined necessary by the sponsor; 356

(6) Have in place a plan of action to be undertaken in the 357
event the community school experiences financial difficulties or 358
closes prior to the end of a school year. 359

(E) Upon the expiration of a contract entered into under 360
this section, the sponsor of a community school may, with the 361
approval of the governing authority of the school, renew that 362

contract for a period of time determined by the sponsor, but not 363
ending earlier than the end of any school year, if the sponsor 364
finds that the school's compliance with applicable laws and 365
terms of the contract and the school's progress in meeting the 366
academic goals prescribed in the contract have been 367
satisfactory. Any contract that is renewed under this division 368
remains subject to the provisions of sections 3314.07, 3314.072, 369
and 3314.073 of the Revised Code. 370

(F) If a community school fails to open for operation 371
within one year after the contract entered into under this 372
section is adopted pursuant to division (D) of section 3314.02 373
of the Revised Code or permanently closes prior to the 374
expiration of the contract, the contract shall be void and the 375
school shall not enter into a contract with any other sponsor. A 376
school shall not be considered permanently closed because the 377
operations of the school have been suspended pursuant to section 378
3314.072 of the Revised Code. 379

Sec. 3317.01. As used in this section, "school district," 380
unless otherwise specified, means any city, local, exempted 381
village, joint vocational, or cooperative education school 382
district and any educational service center. 383

This chapter shall be administered by the state board of 384
education. The superintendent of public instruction shall 385
calculate the amounts payable to each school district and shall 386
certify the amounts payable to each eligible district to the 387
treasurer of the district as provided by this chapter. As soon 388
as possible after such amounts are calculated, the 389
superintendent shall certify to the treasurer of each school 390
district the district's adjusted charge-off increase, as defined 391
in section 5705.211 of the Revised Code. Certification of moneys 392

pursuant to this section shall include the amounts payable to 393
each school building, at a frequency determined by the 394
superintendent, for each subgroup of students, as defined in 395
section 3317.40 of the Revised Code, receiving services, 396
provided for by state funding, from the district or school. No 397
moneys shall be distributed pursuant to this chapter without the 398
approval of the controlling board. 399

The state board of education shall, in accordance with 400
appropriations made by the general assembly, meet the financial 401
obligations of this chapter. 402

Moneys distributed to school districts pursuant to this 403
chapter shall be calculated based on the annual enrollment 404
calculated from the three reports required under sections 405
3317.03 and 3317.036 of the Revised Code and paid on a fiscal 406
year basis, beginning with the first day of July and extending 407
through the thirtieth day of June. In any given fiscal year, 408
prior to school districts submitting the first report required 409
under section 3317.03 of the Revised Code, enrollment for the 410
districts shall be calculated based on the third report 411
submitted by the districts for the previous fiscal year. The 412
moneys appropriated for each fiscal year shall be distributed 413
periodically to each school district unless otherwise provided 414
for. The state board, in June of each year, shall submit to the 415
controlling board the state board's year-end distributions 416
pursuant to this chapter. 417

Except as otherwise provided, payments under this chapter 418
shall be made only to those school districts in which: 419

(A) The school district, except for any educational 420
service center and any joint vocational or cooperative education 421
school district, levies for current operating expenses at least 422

twenty mills. Levies for joint vocational or cooperative 423
education school districts or county school financing districts, 424
limited to or to the extent apportioned to current expenses, 425
shall be included in this qualification requirement. School 426
district income tax levies under Chapter 5748. of the Revised 427
Code, limited to or to the extent apportioned to current 428
operating expenses, shall be included in this qualification 429
requirement to the extent determined by the tax commissioner 430
under division (D) of section 3317.021 of the Revised Code. 431

(B) The school year next preceding the fiscal year for 432
which such payments are authorized meets the requirement of 433
section 3313.48 of the Revised Code, with regard to the minimum 434
number of hours school must be open for instruction with pupils 435
in attendance, for individualized parent-teacher conference and 436
reporting periods, and for professional meetings of teachers, 437
and the requirement of section 3313.621 of the Revised Code, 438
with regard to the first day of the school year on which a 439
school may be open for instruction. 440

A school district shall not be considered to have failed 441
to comply with this division because schools were open for 442
instruction but either twelfth grade students were excused from 443
attendance for up to the equivalent of three school days or only 444
a portion of the kindergarten students were in attendance for up 445
to the equivalent of three school days in order to allow for the 446
gradual orientation to school of such students. 447

A board of education or governing board of an educational 448
service center which has not conformed with other law and the 449
rules pursuant thereto, shall not participate in the 450
distribution of funds authorized by this chapter, except for 451
good and sufficient reason established to the satisfaction of 452

the state board of education and the state controlling board. 453

All funds allocated to school districts under this 454
chapter, except those specifically allocated for other purposes, 455
shall be used to pay current operating expenses only. 456

Sec. 3326.11. Each science, technology, engineering, and 457
mathematics school established under this chapter and its 458
governing body shall comply with sections 9.90, 9.91, 109.65, 459
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 460
3301.0714, 3301.0715, 3301.948, 3313.14, 3313.15, 3313.16, 461
3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 462
3313.482, 3313.50, 3313.536, 3313.539, 3313.608, 3313.6012, 463
3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.61, 3313.611, 464
3313.614, 3313.615, 3313.621, 3313.643, 3313.648, 3313.6411, 465
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 466
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 467
3313.718, 3313.719, 3313.7112, 3317.721, 3313.80, 3313.801, 468
3313.814, 3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 469
3319.073, 3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 470
3319.391, 3319.41, 3319.45, 3319.46, 3321.01, 3321.041, 3321.13, 471
3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 472
4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 473
3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of 474
the Revised Code as if it were a school district. 475

Sec. 3328.24. A college-preparatory boarding school 476
established under this chapter and its board of trustees shall 477
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 478
3301.0714, 3301.948, 3313.536, 3313.6013, 3313.621, 3313.6411, 479
3313.7112, 3313.721, 3313.89, 3319.39, 3319.391, and 3319.46 and 480
Chapter 3365. of the Revised Code as if the school were a school 481
district and the school's board of trustees were a district 482

board of education.	483
Section 2. That existing sections 3314.03, 3317.01,	484
3326.11, and 3328.24 of the Revised Code are hereby repealed.	485
Section 3. Section 3314.03 of the Revised Code is	486
presented in this act as a composite of the section as amended	487
by both Am. Sub. H.B. 2 and Am. Sub. H.B. 64 of the 131st	488
General Assembly. The General Assembly, applying the principle	489
stated in division (B) of section 1.52 of the Revised Code that	490
amendments are to be harmonized if reasonably capable of	491
simultaneous operation, finds that the composite is the	492
resulting version of the section in effect prior to the	493
effective date of the section as presented in this act.	494