

As Passed by the House

133rd General Assembly

Regular Session

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Am. H. B. No. 409

Representative Koehler

**Cosponsors: Representatives Jones, Cupp, Patterson, Carruthers, Galonski,
Ghanbari, Ginter, Scherer**

A BILL

To amend section 3314.03 and to enact section 1
3314.261 of the Revised Code regarding student 2
attendance at internet- or computer-based 3
community schools that are not dropout 4
prevention and recovery schools. 5

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

Section 1. That section 3314.03 be amended and section 6
3314.261 of the Revised Code be enacted to read as follows: 7

Sec. 3314.03. A copy of every contract entered into under 8
this section shall be filed with the superintendent of public 9
instruction. The department of education shall make available on 10
its web site a copy of every approved, executed contract filed 11
with the superintendent under this section. 12

(A) Each contract entered into between a sponsor and the 13
governing authority of a community school shall specify the 14
following: 15

(1) That the school shall be established as either of the 16
following: 17

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;	18 19 20
(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.	21 22
(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;	23 24 25 26
(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;	27 28 29 30
(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;	31 32 33 34
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	35 36 37
(6) (a) Dismissal procedures;	38
(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 seventy-two consecutive hours of the learning opportunities offered to the student.	39 40 41 42 43 44
(7) The ways by which the school will achieve racial and	45

ethnic balance reflective of the community it serves; 46

(8) Requirements for financial audits by the auditor of 47
state. The contract shall require financial records of the 48
school to be maintained in the same manner as are financial 49
records of school districts, pursuant to rules of the auditor of 50
state. Audits shall be conducted in accordance with section 51
117.10 of the Revised Code. 52

(9) An addendum to the contract outlining the facilities 53
to be used that contains at least the following information: 54

(a) A detailed description of each facility used for 55
instructional purposes; 56

(b) The annual costs associated with leasing each facility 57
that are paid by or on behalf of the school; 58

(c) The annual mortgage principal and interest payments 59
that are paid by the school; 60

(d) The name of the lender or landlord, identified as 61
such, and the lender's or landlord's relationship to the 62
operator, if any. 63

(10) Qualifications of teachers, including a requirement 64
that the school's classroom teachers be licensed in accordance 65
with sections 3319.22 to 3319.31 of the Revised Code, except 66
that a community school may engage noncertificated persons to 67
teach up to twelve hours per week pursuant to section 3319.301 68
of the Revised Code. 69

(11) That the school will comply with the following 70
requirements: 71

(a) The school will provide learning opportunities to a 72
minimum of twenty-five students for a minimum of nine hundred 73

twenty hours per school year. 74

(b) The governing authority will purchase liability 75
insurance, or otherwise provide for the potential liability of 76
the school. 77

(c) The school will be nonsectarian in its programs, 78
admission policies, employment practices, and all other 79
operations, and will not be operated by a sectarian school or 80
religious institution. 81

(d) The school will comply with sections 9.90, 9.91, 82
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 83
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3313.472, 84
3313.50, 3313.536, 3313.539, 3313.5310, 3313.608, 3313.609, 85
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 86
3313.6024, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 87
3313.662, 3313.666, 3313.667, 3313.668, 3313.67, 3313.671, 88
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 89
3313.719, 3313.7112, 3313.721, 3313.80, 3313.814, 3313.816, 90
3313.817, 3313.818, 3313.86, 3313.89, 3313.96, 3319.073, 91
3319.321, 3319.39, 3319.391, 3319.41, 3319.46, 3321.01, 92
3321.041, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 93
~~3321.191~~, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 94
117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. 95
of the Revised Code as if it were a school district and will 96
comply with section 3301.0714 of the Revised Code in the manner 97
specified in section 3314.17 of the Revised Code. 98

(e) The school shall comply with Chapter 102. and section 99
2921.42 of the Revised Code. 100

(f) The school will comply with sections 3313.61, 101
3313.611, 3313.614, 3313.617, 3313.618, and 3313.6114 of the 102

Revised Code, except that for students who enter ninth grade for 103
the first time before July 1, 2010, the requirement in sections 104
3313.61 and 3313.611 of the Revised Code that a person must 105
successfully complete the curriculum in any high school prior to 106
receiving a high school diploma may be met by completing the 107
curriculum adopted by the governing authority of the community 108
school rather than the curriculum specified in Title XXXIII of 109
the Revised Code or any rules of the state board of education. 110
Beginning with students who enter ninth grade for the first time 111
on or after July 1, 2010, the requirement in sections 3313.61 112
and 3313.611 of the Revised Code that a person must successfully 113
complete the curriculum of a high school prior to receiving a 114
high school diploma shall be met by completing the requirements 115
prescribed in division (C) of section 3313.603 of the Revised 116
Code, unless the person qualifies under division (D) or (F) of 117
that section. Each school shall comply with the plan for 118
awarding high school credit based on demonstration of subject 119
area competency, and beginning with the 2017-2018 school year, 120
with the updated plan that permits students enrolled in seventh 121
and eighth grade to meet curriculum requirements based on 122
subject area competency adopted by the state board of education 123
under divisions (J) (1) and (2) of section 3313.603 of the 124
Revised Code. Beginning with the 2018-2019 school year, the 125
school shall comply with the framework for granting units of 126
high school credit to students who demonstrate subject area 127
competency through work-based learning experiences, internships, 128
or cooperative education developed by the department under 129
division (J) (3) of section 3313.603 of the Revised Code. 130

(g) The school governing authority will submit within four 131
months after the end of each school year a report of its 132
activities and progress in meeting the goals and standards of 133

divisions (A) (3) and (4) of this section and its financial 134
status to the sponsor and the parents of all students enrolled 135
in the school. 136

(h) The school, unless it is an internet- or computer- 137
based community school, will comply with section 3313.801 of the 138
Revised Code as if it were a school district. 139

(i) If the school is the recipient of moneys from a grant 140
awarded under the federal race to the top program, Division (A), 141
Title XIV, Sections 14005 and 14006 of the "American Recovery 142
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 143
the school will pay teachers based upon performance in 144
accordance with section 3317.141 and will comply with section 145
3319.111 of the Revised Code as if it were a school district. 146

(j) If the school operates a preschool program that is 147
licensed by the department of education under sections 3301.52 148
to 3301.59 of the Revised Code, the school shall comply with 149
sections 3301.50 to 3301.59 of the Revised Code and the minimum 150
standards for preschool programs prescribed in rules adopted by 151
the state board under section 3301.53 of the Revised Code. 152

(k) The school will comply with sections 3313.6021 and 153
3313.6023 of the Revised Code as if it were a school district 154
unless it is either of the following: 155

(i) An internet- or computer-based community school; 156

(ii) A community school in which a majority of the 157
enrolled students are children with disabilities as described in 158
division (A) (4) (b) of section 3314.35 of the Revised Code. 159

(l) The school will comply with section 3321.191 of the 160
Revised Code, unless it is an internet- or computer-based 161
community school that is subject to section 3314.261 of the 162

<u>Revised Code.</u>	163
(12) Arrangements for providing health and other benefits to employees;	164 165
(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.	166 167 168 169
(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;	170 171
(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year.	172 173 174
(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;	175 176 177 178
(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;	179 180 181 182 183 184 185 186 187 188 189
(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the	190 191

governing authority of the community school;	192
(19) A provision requiring the governing authority to	193
adopt a policy regarding the admission of students who reside	194
outside the district in which the school is located. That policy	195
shall comply with the admissions procedures specified in	196
sections 3314.06 and 3314.061 of the Revised Code and, at the	197
sole discretion of the authority, shall do one of the following:	198
(a) Prohibit the enrollment of students who reside outside	199
the district in which the school is located;	200
(b) Permit the enrollment of students who reside in	201
districts adjacent to the district in which the school is	202
located;	203
(c) Permit the enrollment of students who reside in any	204
other district in the state.	205
(20) A provision recognizing the authority of the	206
department of education to take over the sponsorship of the	207
school in accordance with the provisions of division (C) of	208
section 3314.015 of the Revised Code;	209
(21) A provision recognizing the sponsor's authority to	210
assume the operation of a school under the conditions specified	211
in division (B) of section 3314.073 of the Revised Code;	212
(22) A provision recognizing both of the following:	213
(a) The authority of public health and safety officials to	214
inspect the facilities of the school and to order the facilities	215
closed if those officials find that the facilities are not in	216
compliance with health and safety laws and regulations;	217
(b) The authority of the department of education as the	218
community school oversight body to suspend the operation of the	219

school under section 3314.072 of the Revised Code if the 220
department has evidence of conditions or violations of law at 221
the school that pose an imminent danger to the health and safety 222
of the school's students and employees and the sponsor refuses 223
to take such action. 224

(23) A description of the learning opportunities that will 225
be offered to students including both classroom-based and non- 226
classroom-based learning opportunities that is in compliance 227
with criteria for student participation established by the 228
department under division (H) (2) of section 3314.08 of the 229
Revised Code; 230

(24) The school will comply with sections 3302.04 and 231
3302.041 of the Revised Code, except that any action required to 232
be taken by a school district pursuant to those sections shall 233
be taken by the sponsor of the school. However, the sponsor 234
shall not be required to take any action described in division 235
(F) of section 3302.04 of the Revised Code. 236

(25) Beginning in the 2006-2007 school year, the school 237
will open for operation not later than the thirtieth day of 238
September each school year, unless the mission of the school as 239
specified under division (A) (2) of this section is solely to 240
serve dropouts. In its initial year of operation, if the school 241
fails to open by the thirtieth day of September, or within one 242
year after the adoption of the contract pursuant to division (D) 243
of section 3314.02 of the Revised Code if the mission of the 244
school is solely to serve dropouts, the contract shall be void. 245

(26) Whether the school's governing authority is planning 246
to seek designation for the school as a STEM school equivalent 247
under section 3326.032 of the Revised Code; 248

(27) That the school's attendance and participation policies will be available for public inspection;	249 250
(28) That the school's attendance and participation records shall be made available to the department of education, auditor of state, and school's sponsor to the extent permitted under and in accordance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and any regulations promulgated under that act, and section 3319.321 of the Revised Code;	251 252 253 254 255 256 257
(29) If a school operates using the blended learning model, as defined in section 3301.079 of the Revised Code, all of the following information:	258 259 260
(a) An indication of what blended learning model or models will be used;	261 262
(b) A description of how student instructional needs will be determined and documented;	263 264
(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;	265 266
(d) The school's attendance requirements, including how the school will document participation in learning opportunities;	267 268 269
(e) A statement describing how student progress will be monitored;	270 271
(f) A statement describing how private student data will be protected;	272 273
(g) A description of the professional development activities that will be offered to teachers.	274 275

(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;	276 277 278 279
(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.	280 281 282 283 284
(32) A provision requiring the governing authority to adopt an enrollment and attendance policy that requires a student's parent to notify the community school in which the student is enrolled when there is a change in the location of the parent's or student's primary residence.	285 286 287 288 289
(33) A provision requiring the governing authority to adopt a student residence and address verification policy for students enrolling in or attending the school.	290 291 292
(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:	293 294 295
(1) The process by which the governing authority of the school will be selected in the future;	296 297
(2) The management and administration of the school;	298
(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;	299 300 301 302 303

(4) The instructional program and educational philosophy	304
of the school;	305
(5) Internal financial controls.	306
When submitting the plan under this division, the school	307
shall also submit copies of all policies and procedures	308
regarding internal financial controls adopted by the governing	309
authority of the school.	310
(C) A contract entered into under section 3314.02 of the	311
Revised Code between a sponsor and the governing authority of a	312
community school may provide for the community school governing	313
authority to make payments to the sponsor, which is hereby	314
authorized to receive such payments as set forth in the contract	315
between the governing authority and the sponsor. The total	316
amount of such payments for monitoring, oversight, and technical	317
assistance of the school shall not exceed three per cent of the	318
total amount of payments for operating expenses that the school	319
receives from the state.	320
(D) The contract shall specify the duties of the sponsor	321
which shall be in accordance with the written agreement entered	322
into with the department of education under division (B) of	323
section 3314.015 of the Revised Code and shall include the	324
following:	325
(1) Monitor the community school's compliance with all	326
laws applicable to the school and with the terms of the	327
contract;	328
(2) Monitor and evaluate the academic and fiscal	329
performance and the organization and operation of the community	330
school on at least an annual basis;	331
(3) Report on an annual basis the results of the	332

evaluation conducted under division (D) (2) of this section to 333
the department of education and to the parents of students 334
enrolled in the community school; 335

(4) Provide technical assistance to the community school 336
in complying with laws applicable to the school and terms of the 337
contract; 338

(5) Take steps to intervene in the school's operation to 339
correct problems in the school's overall performance, declare 340
the school to be on probationary status pursuant to section 341
3314.073 of the Revised Code, suspend the operation of the 342
school pursuant to section 3314.072 of the Revised Code, or 343
terminate the contract of the school pursuant to section 3314.07 344
of the Revised Code as determined necessary by the sponsor; 345

(6) Have in place a plan of action to be undertaken in the 346
event the community school experiences financial difficulties or 347
closes prior to the end of a school year. 348

(E) Upon the expiration of a contract entered into under 349
this section, the sponsor of a community school may, with the 350
approval of the governing authority of the school, renew that 351
contract for a period of time determined by the sponsor, but not 352
ending earlier than the end of any school year, if the sponsor 353
finds that the school's compliance with applicable laws and 354
terms of the contract and the school's progress in meeting the 355
academic goals prescribed in the contract have been 356
satisfactory. Any contract that is renewed under this division 357
remains subject to the provisions of sections 3314.07, 3314.072, 358
and 3314.073 of the Revised Code. 359

(F) If a community school fails to open for operation 360
within one year after the contract entered into under this 361

section is adopted pursuant to division (D) of section 3314.02 362
of the Revised Code or permanently closes prior to the 363
expiration of the contract, the contract shall be void and the 364
school shall not enter into a contract with any other sponsor. A 365
school shall not be considered permanently closed because the 366
operations of the school have been suspended pursuant to section 367
3314.072 of the Revised Code. 368

Sec. 3314.261. This section shall not apply to an 369
internet- or computer-based community school in which a majority 370
of the students are enrolled in a dropout prevention and 371
recovery program. 372

(A) For purposes of this section, "instructional 373
activities" means the following classroom-based or nonclassroom- 374
based activities that a student is expected to complete, 375
participate in, or attend during any given school day: 376

(1) Online logins to curriculum or programs; 377

(2) Offline activities; 378

(3) Completed assignments within a particular program, 379
curriculum, or class; 380

(4) Testing; 381

(5) Face-to-face communications or meetings with school 382
staff or service providers; 383

(6) Telephone or video conferences with school staff or 384
service providers; 385

(7) Other documented communication with school staff or 386
service providers related to school curriculum or programs. 387

(B) (1) Each internet- or computer-based community school's 388

attendance policy adopted in accordance with division (A) (6) (b) 389
of section 3314.03 of the Revised Code shall specify that a 390
student is considered in attendance at the school when the 391
student satisfies either of the following conditions: 392

(a) The student participates in at least ninety per cent 393
of the hours of instructional activities offered by the school 394
in that school year; 395

(b) The student is on pace for on-time completion of any 396
course in which the student is enrolled. The school's attendance 397
policy shall define "on pace for on-time completion" for 398
purposes of division (B) (1) (b) of this section. 399

(2) If a student is not considered in attendance under 400
division (B) (1) of this section, the student shall be considered 401
absent for those hours of instructional activities offered by 402
the school in that school year in which the student does not 403
participate. 404

(3) In the event that a student has thirty or more hours 405
of unexcused absences in any semester, the internet- or 406
computer-based community school in which the student is enrolled 407
shall submit a written report to the student's parent, guardian, 408
or custodian. 409

(C) Notwithstanding section 3321.191 of the Revised Code, 410
each internet- or computer-based community school shall develop 411
and adopt a policy regarding failure to participate in 412
instructional activities. The policy shall state that a student 413
shall become subject to certain consequences, including 414
disenrollment from the school, if both of the following 415
conditions are satisfied: 416

(1) After the student's parent, guardian, or custodian 417

receives a written report under division (B) (2) of this section, 418
the student fails to comply with the policy adopted under 419
division (C) of this section within a reasonable period of time 420
specified by the school; 421

(2) Other intervention strategies contained in the policy 422
adopted under division (C) of this section fail to cause a 423
student's attendance to comply with the policy. 424

(D) If an internet- or computer-based community school 425
disenrolled a student pursuant to a policy adopted under 426
division (C) of this section, the student shall not be eligible 427
to enroll in that school or another internet- or computer-based 428
community school for one school year from the date of the 429
student's disenrollment. This division does not prohibit a 430
disenrolled student from enrolling in another internet- or 431
computer-based community school if a majority of the students of 432
that school are enrolled in a dropout prevention and recovery 433
program. 434

(E) If an internet- or computer-based community school 435
disenrolls a student pursuant to a policy adopted under division 436
(C) of this section, the school shall do both of the following: 437

(1) Provide the student's parent, guardian, or custodian 438
with a list of alternative educational options available to the 439
student; 440

(2) Within forty-eight hours of the student's 441
disenrollment, notify the student's resident school district in 442
writing. 443

(F) Nothing in this section shall be construed to affect 444
the procedure for automatically withdrawing a student from 445
school that must be adopted as part of a school's attendance 446

<u>policy in accordance with division (A)(6)(b) of section 3314.03</u>	447
<u>of the Revised Code.</u>	448
Section 2. That existing section 3314.03 of the Revised	449
Code is hereby repealed.	450