

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 400

Representatives Loychik, Schmidt

Cosponsors: Representatives Merrin, Edwards, Powell, Jordan, Hall, Stoltzfus, Ferguson, Gross, Grendell, LaRe, Dean, Brinkman, Wiggam, Cutrona, Click, Riedel, Miller, K., Johnson, Cross, Creech, Stephens, Ray, Swearingen, John

A BILL

To amend sections 3313.665, 3314.03, 3326.11, and 1
3328.24 and to enact section 3313.7117 of the 2
Revised Code to prohibit public schools from 3
requiring students to wear a mask or other 4
facial covering on school premises or a school 5
bus and to declare an emergency. 6

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

Section 1. That sections 3313.665, 3314.03, 3326.11, and 7
3328.24 be amended and section 3313.7117 of the Revised Code be 8
enacted to read as follows: 9

Sec. 3313.665. In order to promote a safe and healthy 10
school setting and enhance the educational environment, a code 11
of conduct or discipline policy adopted by a board of education 12
may include a reasonable dress code, or may establish a school 13
uniform to be worn by the students attending one or more 14
district schools. Any such dress code or uniform policy shall be 15
included in the code of conduct or discipline policy only if all 16
of the following conditions are met: 17

(A) Any specific uniform selected for a school shall be 18
determined by the district board after affording ample 19
opportunity for principal, staff, and parents to offer 20
suggestions and comments. 21

(B) No specific uniform shall be required in any school 22
until the parents of the students in the school have been given 23
six months notice. 24

(C) No specific uniform shall be required in any school 25
unless the board includes in the policy adopted under this 26
section a procedure to assist parents of economically 27
disadvantaged students to obtain uniforms. This procedure may 28
include using school district funds or funds from other sources 29
to provide this assistance. 30

(D) Any policy requiring uniforms shall provide exceptions 31
for students participating in a nationally recognized youth 32
organization that establishes its own uniforms, on those days 33
that such organization has a scheduled function. 34

In accordance with section 3313.7117 of the Revised Code, 35
a dress code or uniform policy authorized under this section 36
shall not require the wearing of face masks or facial coverings. 37

Sec. 3313.7117. Notwithstanding any provision of the 38
Revised Code or any order, rule, or other law to the contrary, 39
the board of education of any school district, or individual 40
school building, shall not require any student to wear a face 41
mask or facial covering on school premises, as defined in 42
section 3313.77 of the Revised Code, or while riding a school 43
bus to or from school premises. An individual may choose to wear 44
a face mask or facial covering on school premises or a school 45
bus, but shall not be required to do so. 46

Sec. 3314.03. A copy of every contract entered into under 47
this section shall be filed with the superintendent of public 48
instruction. The department of education shall make available on 49
its web site a copy of every approved, executed contract filed 50
with the superintendent under this section. 51

(A) Each contract entered into between a sponsor and the 52
governing authority of a community school shall specify the 53
following: 54

(1) That the school shall be established as either of the 55
following: 56

(a) A nonprofit corporation established under Chapter 57
1702. of the Revised Code, if established prior to April 8, 58
2003; 59

(b) A public benefit corporation established under Chapter 60
1702. of the Revised Code, if established after April 8, 2003. 61

(2) The education program of the school, including the 62
school's mission, the characteristics of the students the school 63
is expected to attract, the ages and grades of students, and the 64
focus of the curriculum; 65

(3) The academic goals to be achieved and the method of 66
measurement that will be used to determine progress toward those 67
goals, which shall include the statewide achievement 68
assessments; 69

(4) Performance standards, including but not limited to 70
all applicable report card measures set forth in section 3302.03 71
or 3314.017 of the Revised Code, by which the success of the 72
school will be evaluated by the sponsor; 73

(5) The admission standards of section 3314.06 of the 74

Revised Code and, if applicable, section 3314.061 of the Revised Code;	75 76
(6) (a) Dismissal procedures;	77
(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.	78 79 80 81 82 83
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	84 85
(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.	86 87 88 89 90 91
(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:	92 93
(a) A detailed description of each facility used for instructional purposes;	94 95
(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;	96 97
(c) The annual mortgage principal and interest payments that are paid by the school;	98 99
(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.	100 101 102

(10) Qualifications of teachers, including a requirement	103
that the school's classroom teachers be licensed in accordance	104
with sections 3319.22 to 3319.31 of the Revised Code, except	105
that a community school may engage noncertificated persons to	106
teach up to twelve hours or forty hours per week pursuant to	107
section 3319.301 of the Revised Code.	108
(11) That the school will comply with the following	109
requirements:	110
(a) The school will provide learning opportunities to a	111
minimum of twenty-five students for a minimum of nine hundred	112
twenty hours per school year.	113
(b) The governing authority will purchase liability	114
insurance, or otherwise provide for the potential liability of	115
the school.	116
(c) The school will be nonsectarian in its programs,	117
admission policies, employment practices, and all other	118
operations, and will not be operated by a sectarian school or	119
religious institution.	120
(d) The school will comply with sections 9.90, 9.91,	121
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710,	122
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3302.037,	123
3313.472, 3313.50, 3313.539, 3313.5310, 3313.608, 3313.609,	124
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020,	125
3313.6024, 3313.6025, 3313.6026, 3313.643, 3313.648, 3313.6411,	126
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.668,	127
3313.669, 3313.6610, 3313.67, 3313.671, 3313.672, 3313.673,	128
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112,	129
<u>3313.7117</u> , 3313.721, 3313.80, 3313.814, 3313.816, 3313.817,	130
3313.818, 3313.86, 3313.89, 3313.96, 3319.073, 3319.077,	131

3319.078, 3319.318, 3319.321, 3319.39, 3319.391, 3319.393, 132
3319.41, 3319.46, 3320.01, 3320.02, 3320.03, 3321.01, 3321.041, 133
3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 3323.251, 134
3327.10, 4111.17, 4113.52, 5502.262, and 5705.391 and Chapters 135
117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. 136
of the Revised Code as if it were a school district and will 137
comply with section 3301.0714 of the Revised Code in the manner 138
specified in section 3314.17 of the Revised Code. 139

(e) The school shall comply with Chapter 102. and section 140
2921.42 of the Revised Code. 141

(f) The school will comply with sections 3313.61, 142
3313.611, 3313.614, 3313.617, 3313.618, and 3313.6114 of the 143
Revised Code, except that for students who enter ninth grade for 144
the first time before July 1, 2010, the requirement in sections 145
3313.61 and 3313.611 of the Revised Code that a person must 146
successfully complete the curriculum in any high school prior to 147
receiving a high school diploma may be met by completing the 148
curriculum adopted by the governing authority of the community 149
school rather than the curriculum specified in Title XXXIII of 150
the Revised Code or any rules of the state board of education. 151
Beginning with students who enter ninth grade for the first time 152
on or after July 1, 2010, the requirement in sections 3313.61 153
and 3313.611 of the Revised Code that a person must successfully 154
complete the curriculum of a high school prior to receiving a 155
high school diploma shall be met by completing the requirements 156
prescribed in division (C) of section 3313.603 of the Revised 157
Code, unless the person qualifies under division (D) or (F) of 158
that section. Each school shall comply with the plan for 159
awarding high school credit based on demonstration of subject 160
area competency, and beginning with the 2017-2018 school year, 161
with the updated plan that permits students enrolled in seventh 162

and eighth grade to meet curriculum requirements based on 163
subject area competency adopted by the state board of education 164
under divisions (J) (1) and (2) of section 3313.603 of the 165
Revised Code. Beginning with the 2018-2019 school year, the 166
school shall comply with the framework for granting units of 167
high school credit to students who demonstrate subject area 168
competency through work-based learning experiences, internships, 169
or cooperative education developed by the department under 170
division (J) (3) of section 3313.603 of the Revised Code. 171

(g) The school governing authority will submit within four 172
months after the end of each school year a report of its 173
activities and progress in meeting the goals and standards of 174
divisions (A) (3) and (4) of this section and its financial 175
status to the sponsor and the parents of all students enrolled 176
in the school. 177

(h) The school, unless it is an internet- or computer- 178
based community school, will comply with section 3313.801 of the 179
Revised Code as if it were a school district. 180

(i) If the school is the recipient of moneys from a grant 181
awarded under the federal race to the top program, Division (A), 182
Title XIV, Sections 14005 and 14006 of the "American Recovery 183
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 184
the school will pay teachers based upon performance in 185
accordance with section 3317.141 and will comply with section 186
3319.111 of the Revised Code as if it were a school district. 187

(j) If the school operates a preschool program that is 188
licensed by the department of education under sections 3301.52 189
to 3301.59 of the Revised Code, the school shall comply with 190
sections 3301.50 to 3301.59 of the Revised Code and the minimum 191
standards for preschool programs prescribed in rules adopted by 192

the state board under section 3301.53 of the Revised Code.	193
(k) The school will comply with sections 3313.6021 and	194
3313.6023 of the Revised Code as if it were a school district	195
unless it is either of the following:	196
(i) An internet- or computer-based community school;	197
(ii) A community school in which a majority of the	198
enrolled students are children with disabilities as described in	199
division (A) (4) (b) of section 3314.35 of the Revised Code.	200
(l) The school will comply with section 3321.191 of the	201
Revised Code, unless it is an internet- or computer-based	202
community school that is subject to section 3314.261 of the	203
Revised Code.	204
(12) Arrangements for providing health and other benefits	205
to employees;	206
(13) The length of the contract, which shall begin at the	207
beginning of an academic year. No contract shall exceed five	208
years unless such contract has been renewed pursuant to division	209
(E) of this section.	210
(14) The governing authority of the school, which shall be	211
responsible for carrying out the provisions of the contract;	212
(15) A financial plan detailing an estimated school budget	213
for each year of the period of the contract and specifying the	214
total estimated per pupil expenditure amount for each such year.	215
(16) Requirements and procedures regarding the disposition	216
of employees of the school in the event the contract is	217
terminated or not renewed pursuant to section 3314.07 of the	218
Revised Code;	219

(17) Whether the school is to be created by converting all 220
or part of an existing public school or educational service 221
center building or is to be a new start-up school, and if it is 222
a converted public school or service center building, 223
specification of any duties or responsibilities of an employer 224
that the board of education or service center governing board 225
that operated the school or building before conversion is 226
delegating to the governing authority of the community school 227
with respect to all or any specified group of employees provided 228
the delegation is not prohibited by a collective bargaining 229
agreement applicable to such employees; 230

(18) Provisions establishing procedures for resolving 231
disputes or differences of opinion between the sponsor and the 232
governing authority of the community school; 233

(19) A provision requiring the governing authority to 234
adopt a policy regarding the admission of students who reside 235
outside the district in which the school is located. That policy 236
shall comply with the admissions procedures specified in 237
sections 3314.06 and 3314.061 of the Revised Code and, at the 238
sole discretion of the authority, shall do one of the following: 239

(a) Prohibit the enrollment of students who reside outside 240
the district in which the school is located; 241

(b) Permit the enrollment of students who reside in 242
districts adjacent to the district in which the school is 243
located; 244

(c) Permit the enrollment of students who reside in any 245
other district in the state. 246

(20) A provision recognizing the authority of the 247
department of education to take over the sponsorship of the 248

school in accordance with the provisions of division (C) of	249
section 3314.015 of the Revised Code;	250
(21) A provision recognizing the sponsor's authority to	251
assume the operation of a school under the conditions specified	252
in division (B) of section 3314.073 of the Revised Code;	253
(22) A provision recognizing both of the following:	254
(a) The authority of public health and safety officials to	255
inspect the facilities of the school and to order the facilities	256
closed if those officials find that the facilities are not in	257
compliance with health and safety laws and regulations;	258
(b) The authority of the department of education as the	259
community school oversight body to suspend the operation of the	260
school under section 3314.072 of the Revised Code if the	261
department has evidence of conditions or violations of law at	262
the school that pose an imminent danger to the health and safety	263
of the school's students and employees and the sponsor refuses	264
to take such action.	265
(23) A description of the learning opportunities that will	266
be offered to students including both classroom-based and non-	267
classroom-based learning opportunities that is in compliance	268
with criteria for student participation established by the	269
department under division (H) (2) of section 3314.08 of the	270
Revised Code;	271
(24) The school will comply with sections 3302.04 and	272
3302.041 of the Revised Code, except that any action required to	273
be taken by a school district pursuant to those sections shall	274
be taken by the sponsor of the school. However, the sponsor	275
shall not be required to take any action described in division	276
(F) of section 3302.04 of the Revised Code.	277

(25) Beginning in the 2006-2007 school year, the school 278
will open for operation not later than the thirtieth day of 279
September each school year, unless the mission of the school as 280
specified under division (A)(2) of this section is solely to 281
serve dropouts. In its initial year of operation, if the school 282
fails to open by the thirtieth day of September, or within one 283
year after the adoption of the contract pursuant to division (D) 284
of section 3314.02 of the Revised Code if the mission of the 285
school is solely to serve dropouts, the contract shall be void. 286

(26) Whether the school's governing authority is planning 287
to seek designation for the school as a STEM school equivalent 288
under section 3326.032 of the Revised Code; 289

(27) That the school's attendance and participation 290
policies will be available for public inspection; 291

(28) That the school's attendance and participation 292
records shall be made available to the department of education, 293
auditor of state, and school's sponsor to the extent permitted 294
under and in accordance with the "Family Educational Rights and 295
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, 296
and any regulations promulgated under that act, and section 297
3319.321 of the Revised Code; 298

(29) If a school operates using the blended learning 299
model, as defined in section 3301.079 of the Revised Code, all 300
of the following information: 301

(a) An indication of what blended learning model or models 302
will be used; 303

(b) A description of how student instructional needs will 304
be determined and documented; 305

(c) The method to be used for determining competency, 306

granting credit, and promoting students to a higher grade level;	307
(d) The school's attendance requirements, including how	308
the school will document participation in learning	309
opportunities;	310
(e) A statement describing how student progress will be	311
monitored;	312
(f) A statement describing how private student data will	313
be protected;	314
(g) A description of the professional development	315
activities that will be offered to teachers.	316
(30) A provision requiring that all moneys the school's	317
operator loans to the school, including facilities loans or cash	318
flow assistance, must be accounted for, documented, and bear	319
interest at a fair market rate;	320
(31) A provision requiring that, if the governing	321
authority contracts with an attorney, accountant, or entity	322
specializing in audits, the attorney, accountant, or entity	323
shall be independent from the operator with which the school has	324
contracted.	325
(32) A provision requiring the governing authority to	326
adopt an enrollment and attendance policy that requires a	327
student's parent to notify the community school in which the	328
student is enrolled when there is a change in the location of	329
the parent's or student's primary residence.	330
(33) A provision requiring the governing authority to	331
adopt a student residence and address verification policy for	332
students enrolling in or attending the school.	333
(B) The community school shall also submit to the sponsor	334

a comprehensive plan for the school. The plan shall specify the 335
following: 336

- (1) The process by which the governing authority of the 337
school will be selected in the future; 338
- (2) The management and administration of the school; 339
- (3) If the community school is a currently existing public 340
school or educational service center building, alternative 341
arrangements for current public school students who choose not 342
to attend the converted school and for teachers who choose not 343
to teach in the school or building after conversion; 344
- (4) The instructional program and educational philosophy 345
of the school; 346
- (5) Internal financial controls. 347

When submitting the plan under this division, the school 348
shall also submit copies of all policies and procedures 349
regarding internal financial controls adopted by the governing 350
authority of the school. 351

(C) A contract entered into under section 3314.02 of the 352
Revised Code between a sponsor and the governing authority of a 353
community school may provide for the community school governing 354
authority to make payments to the sponsor, which is hereby 355
authorized to receive such payments as set forth in the contract 356
between the governing authority and the sponsor. The total 357
amount of such payments for monitoring, oversight, and technical 358
assistance of the school shall not exceed three per cent of the 359
total amount of payments for operating expenses that the school 360
receives from the state. 361

(D) The contract shall specify the duties of the sponsor 362

which shall be in accordance with the written agreement entered 363
into with the department of education under division (B) of 364
section 3314.015 of the Revised Code and shall include the 365
following: 366

(1) Monitor the community school's compliance with all 367
laws applicable to the school and with the terms of the 368
contract; 369

(2) Monitor and evaluate the academic and fiscal 370
performance and the organization and operation of the community 371
school on at least an annual basis; 372

(3) Report on an annual basis the results of the 373
evaluation conducted under division (D) (2) of this section to 374
the department of education and to the parents of students 375
enrolled in the community school; 376

(4) Provide technical assistance to the community school 377
in complying with laws applicable to the school and terms of the 378
contract; 379

(5) Take steps to intervene in the school's operation to 380
correct problems in the school's overall performance, declare 381
the school to be on probationary status pursuant to section 382
3314.073 of the Revised Code, suspend the operation of the 383
school pursuant to section 3314.072 of the Revised Code, or 384
terminate the contract of the school pursuant to section 3314.07 385
of the Revised Code as determined necessary by the sponsor; 386

(6) Have in place a plan of action to be undertaken in the 387
event the community school experiences financial difficulties or 388
closes prior to the end of a school year. 389

(E) Upon the expiration of a contract entered into under 390
this section, the sponsor of a community school may, with the 391

approval of the governing authority of the school, renew that 392
contract for a period of time determined by the sponsor, but not 393
ending earlier than the end of any school year, if the sponsor 394
finds that the school's compliance with applicable laws and 395
terms of the contract and the school's progress in meeting the 396
academic goals prescribed in the contract have been 397
satisfactory. Any contract that is renewed under this division 398
remains subject to the provisions of sections 3314.07, 3314.072, 399
and 3314.073 of the Revised Code. 400

(F) If a community school fails to open for operation 401
within one year after the contract entered into under this 402
section is adopted pursuant to division (D) of section 3314.02 403
of the Revised Code or permanently closes prior to the 404
expiration of the contract, the contract shall be void and the 405
school shall not enter into a contract with any other sponsor. A 406
school shall not be considered permanently closed because the 407
operations of the school have been suspended pursuant to section 408
3314.072 of the Revised Code. 409

Sec. 3326.11. Each science, technology, engineering, and 410
mathematics school established under this chapter and its 411
governing body shall comply with sections 9.90, 9.91, 109.65, 412
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 413
3301.0714, 3301.0715, 3301.0729, 3301.948, 3302.037, 3313.14, 414
3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 415
3313.481, 3313.482, 3313.50, 3313.539, 3313.5310, 3313.608, 416
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 417
3313.6021, 3313.6024, 3313.6025, 3313.6026, 3313.61, 3313.611, 418
3313.614, 3313.615, 3313.617, 3313.618, 3313.6114, 3313.643, 419
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 420
3313.667, 3313.668, 3313.669, 3313.6610, 3313.67, 3313.671, 421
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 422

3313.719, 3313.7112, 3313.7117, 3313.721, 3313.80, 3313.801, 423
3313.814, 3313.816, 3313.817, 3313.818, 3313.86, 3313.89, 424
3313.96, 3319.073, 3319.077, 3319.078, 3319.21, 3319.318, 425
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.393, 426
3319.41, 3319.45, 3319.46, 3320.01, 3320.02, 3320.03, 3321.01, 427
3321.041, 3321.05, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 428
3321.19, 3321.191, 3323.251, 3327.10, 4111.17, 4113.52, 429
5502.262, and 5705.391 and Chapters 102., 117., 1347., 2744., 430
3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of 431
the Revised Code as if it were a school district. 432

Sec. 3328.24. A college-preparatory boarding school 433
established under this chapter and its board of trustees shall 434
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 435
3301.0714, 3301.0729, 3301.948, 3313.6013, 3313.6021, 3313.6024, 436
3313.6025, 3313.6026, 3313.617, 3313.618, 3313.6114, 3313.6411, 437
3313.668, 3313.669, 3313.6610, 3313.7112, 3313.7117, 3313.721, 438
3313.89, 3319.073, 3319.077, 3319.078, 3319.318, 3319.39, 439
3319.391, 3319.393, 3319.46, 3320.01, 3320.02, 3320.03, 440
3323.251, and 5502.262, and Chapter 3365. of the Revised Code as 441
if the school were a school district and the school's board of 442
trustees were a district board of education. 443

Section 2. That existing sections 3313.665, 3314.03, 444
3326.11, and 3328.24 of the Revised Code are hereby repealed. 445

Section 3. The General Assembly, applying the principle 446
stated in division (B) of section 1.52 of the Revised Code that 447
amendments are to be harmonized if reasonably capable of 448
simultaneous operation, finds that the following sections, 449
presented in this act as composites of the sections as amended 450
by the acts indicated, are the resulting versions of the 451
sections in effect prior to the effective date of the sections 452

as presented in this act:	453
Section 3314.03 of the Revised Code as amended by both H.B. 82 and H.B. 110 of the 134th General Assembly.	454 455
Section 3326.11 of the Revised Code as amended by both H.B. 82 and H.B. 110 of the 134th General Assembly.	456 457
Section 3328.24 of the Revised Code as amended by both H.B. 82 and H.B. 110 of the 134th General Assembly.	458 459
Section 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that parents should decide whether masks or facial coverings are appropriate for their children while at school. Therefore, this act shall go into immediate effect.	460 461 462 463 464 465