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133rd General Assembly

Regular Session

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H. B. No. 164

Representative Ginter

Cosponsors: Representatives Dean, Becker, Koehler, Schaffer, Riedel, Stoltzfus, Romanchuk, Smith, R., Carfagna, Lang, Merrin, Hood, Lipps, LaTourette, Ryan, Greenspan, Keller, Seitz, Jones, Smith, T., Baldrige, Butler, Cross, DeVitis, Fraizer, Ghanbari, Green, Holmes, A., Hoops, Jordan, Kick, McClain, Patton, Perales, Richardson, Scherer, Stein, Stephens, Swearingen

A BILL

To amend sections 3313.601, 3314.03, 3326.11, and 1
3328.24 and to enact sections 3320.01, 3320.02, 2
and 3320.03 of the Revised Code regarding 3
student religious expression and to entitle the 4
act the "Ohio Student Religious Liberties Act of 5
2019." 6

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

Section 1. That sections 3313.601, 3314.03, 3326.11, and 7
3328.24 be amended and sections 3320.01, 3320.02, and 3320.03 of 8
the Revised Code be enacted to read as follows: 9

Sec. 3313.601. The board of education of each school 10
district may provide for a moment of silence each school day for 11
prayer, reflection, or meditation upon a moral, philosophical, 12
or patriotic theme. No board of education, school, or employee 13
of the school district shall require a pupil to participate in a 14
moment of silence provided for pursuant to this section. No 15

board of education shall prohibit a classroom teacher from 16
providing in the teacher's classroom reasonable periods of time 17
for activities of a moral, philosophical, or patriotic theme. No 18
pupil shall be required to participate in such activities if 19
they are contrary to the religious convictions of the pupil or 20
the pupil's parents or guardians. 21

No board of education of a school district shall adopt any 22
policy or rule respecting or promoting an establishment of 23
religion or prohibiting any pupil from the free, individual, and 24
voluntary exercise or expression of the pupil's religious 25
beliefs in any primary or secondary school. ~~The board of 26
education may limit the exercise or expression of the pupil's 27
religious beliefs as described in this section to lunch periods 28
or other noninstructional time periods when pupils are free to 29
associate.~~ 30

Sec. 3314.03. A copy of every contract entered into under 31
this section shall be filed with the superintendent of public 32
instruction. The department of education shall make available on 33
its web site a copy of every approved, executed contract filed 34
with the superintendent under this section. 35

(A) Each contract entered into between a sponsor and the 36
governing authority of a community school shall specify the 37
following: 38

(1) That the school shall be established as either of the 39
following: 40

(a) A nonprofit corporation established under Chapter 41
1702. of the Revised Code, if established prior to April 8, 42
2003; 43

(b) A public benefit corporation established under Chapter 44

1702. of the Revised Code, if established after April 8, 2003.	45
(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;	46 47 48 49
(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;	50 51 52 53
(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;	54 55 56 57
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	58 59 60
(6) (a) Dismissal procedures;	61
(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.	62 63 64 65 66 67
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	68 69
(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	70 71 72

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.	73 74 75
(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:	76 77
(a) A detailed description of each facility used for instructional purposes;	78 79
(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;	80 81
(c) The annual mortgage principal and interest payments that are paid by the school;	82 83
(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.	84 85 86
(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.	87 88 89 90 91 92
(11) That the school will comply with the following requirements:	93 94
(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.	95 96 97
(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.	98 99 100

(c) The school will be nonsectarian in its programs, 101
admission policies, employment practices, and all other 102
operations, and will not be operated by a sectarian school or 103
religious institution. 104

(d) The school will comply with sections 9.90, 9.91, 105
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 106
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3313.472, 107
3313.50, 3313.536, 3313.539, 3313.5310, 3313.608, 3313.609, 108
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.643, 109
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 110
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 111
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 112
3313.721, 3313.80, 3313.814, 3313.816, 3313.817, 3313.86, 113
3313.89, 3313.96, 3319.073, 3319.074, 3319.321, 3319.39, 114
3319.391, 3319.41, 3319.46, 3320.01, 3320.02, 3320.03, 3321.01, 115
3321.041, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 116
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117
117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. 118
of the Revised Code as if it were a school district and will 119
comply with section 3301.0714 of the Revised Code in the manner 120
specified in section 3314.17 of the Revised Code. 121

(e) The school shall comply with Chapter 102. and section 122
2921.42 of the Revised Code. 123

(f) The school will comply with sections 3313.61, 124
3313.611, and 3313.614 of the Revised Code, except that for 125
students who enter ninth grade for the first time before July 1, 126
2010, the requirement in sections 3313.61 and 3313.611 of the 127
Revised Code that a person must successfully complete the 128
curriculum in any high school prior to receiving a high school 129
diploma may be met by completing the curriculum adopted by the 130

governing authority of the community school rather than the 131
curriculum specified in Title XXXVIII of the Revised Code or any 132
rules of the state board of education. Beginning with students 133
who enter ninth grade for the first time on or after July 1, 134
2010, the requirement in sections 3313.61 and 3313.611 of the 135
Revised Code that a person must successfully complete the 136
curriculum of a high school prior to receiving a high school 137
diploma shall be met by completing the requirements prescribed 138
in division (C) of section 3313.603 of the Revised Code, unless 139
the person qualifies under division (D) or (F) of that section. 140
Each school shall comply with the plan for awarding high school 141
credit based on demonstration of subject area competency, and 142
beginning with the 2017-2018 school year, with the updated plan 143
that permits students enrolled in seventh and eighth grade to 144
meet curriculum requirements based on subject area competency 145
adopted by the state board of education under divisions (J) (1) 146
and (2) of section 3313.603 of the Revised Code. Beginning with 147
the 2018-2019 school year, the school shall comply with the 148
framework for granting units of high school credit to students 149
who demonstrate subject area competency through work-based 150
learning experiences, internships, or cooperative education 151
developed by the department under division (J) (3) of section 152
3313.603 of the Revised Code. 153

(g) The school governing authority will submit within four 154
months after the end of each school year a report of its 155
activities and progress in meeting the goals and standards of 156
divisions (A) (3) and (4) of this section and its financial 157
status to the sponsor and the parents of all students enrolled 158
in the school. 159

(h) The school, unless it is an internet- or computer- 160
based community school, will comply with section 3313.801 of the 161

Revised Code as if it were a school district. 162

(i) If the school is the recipient of moneys from a grant 163
awarded under the federal race to the top program, Division (A), 164
Title XIV, Sections 14005 and 14006 of the "American Recovery 165
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 166
the school will pay teachers based upon performance in 167
accordance with section 3317.141 and will comply with section 168
3319.111 of the Revised Code as if it were a school district. 169

(j) If the school operates a preschool program that is 170
licensed by the department of education under sections 3301.52 171
to 3301.59 of the Revised Code, the school shall comply with 172
sections 3301.50 to 3301.59 of the Revised Code and the minimum 173
standards for preschool programs prescribed in rules adopted by 174
the state board under section 3301.53 of the Revised Code. 175

(k) The school will comply with sections 3313.6021 and 176
3313.6023 of the Revised Code as if it were a school district 177
unless it is either of the following: 178

(i) An internet- or computer-based community school; 179

(ii) A community school in which a majority of the 180
enrolled students are children with disabilities as described in 181
division (A) (4) (b) of section 3314.35 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 model, as defined in section 3301.079 of the Revised Code, all of the following information:	277 278 279
(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	299 300 301 302

contracted.	303
(32) A provision requiring the governing authority to	304
adopt an enrollment and attendance policy that requires a	305
student's parent to notify the community school in which the	306
student is enrolled when there is a change in the location of	307
the parent's or student's primary residence.	308
(33) A provision requiring the governing authority to	309
adopt a student residence and address verification policy for	310
students enrolling in or attending the school.	311
(B) The community school shall also submit to the sponsor	312
a comprehensive plan for the school. The plan shall specify the	313
following:	314
(1) The process by which the governing authority of the	315
school will be selected in the future;	316
(2) The management and administration of the school;	317
(3) If the community school is a currently existing public	318
school or educational service center building, alternative	319
arrangements for current public school students who choose not	320
to attend the converted school and for teachers who choose not	321
to teach in the school or building after conversion;	322
(4) The instructional program and educational philosophy	323
of the school;	324
(5) Internal financial controls.	325
When submitting the plan under this division, the school	326
shall also submit copies of all policies and procedures	327
regarding internal financial controls adopted by the governing	328
authority of the school.	329

(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.

(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:

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

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

(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;

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

(5) Take steps to intervene in the school's operation to

correct problems in the school's overall performance, declare 359
the school to be on probationary status pursuant to section 360
3314.073 of the Revised Code, suspend the operation of the 361
school pursuant to section 3314.072 of the Revised Code, or 362
terminate the contract of the school pursuant to section 3314.07 363
of the Revised Code as determined necessary by the sponsor; 364

(6) Have in place a plan of action to be undertaken in the 365
event the community school experiences financial difficulties or 366
closes prior to the end of a school year. 367

(E) Upon the expiration of a contract entered into under 368
this section, the sponsor of a community school may, with the 369
approval of the governing authority of the school, renew that 370
contract for a period of time determined by the sponsor, but not 371
ending earlier than the end of any school year, if the sponsor 372
finds that the school's compliance with applicable laws and 373
terms of the contract and the school's progress in meeting the 374
academic goals prescribed in the contract have been 375
satisfactory. Any contract that is renewed under this division 376
remains subject to the provisions of sections 3314.07, 3314.072, 377
and 3314.073 of the Revised Code. 378

(F) If a community school fails to open for operation 379
within one year after the contract entered into under this 380
section is adopted pursuant to division (D) of section 3314.02 381
of the Revised Code or permanently closes prior to the 382
expiration of the contract, the contract shall be void and the 383
school shall not enter into a contract with any other sponsor. A 384
school shall not be considered permanently closed because the 385
operations of the school have been suspended pursuant to section 386
3314.072 of the Revised Code. 387

Sec. 3320.01. (A) Sections 3320.01, 3320.02, and 3320.03 388

of the Revised Code shall be collectively known as the "Ohio Student Religious Liberties Act of 2019." 389
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(B) As used in sections 3320.01 to 3320.03 of the Revised Code, "religious expression" includes any of the following: 391
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(1) Prayer; 393

(2) Religious gatherings, including but not limited to prayer groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings; 394
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(3) Distribution of written materials or literature of a religious nature; 397
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(4) Any other activity of a religious nature, including wearing symbolic clothing or expression of a religious viewpoint, provided that the activity is not obscene, vulgar, offensively lewd, or indecent. 399
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Sec. 3320.02. (A) A student enrolled in a public school may engage in religious expression before, during, and after school hours in the same manner and to the same extent that a student is permitted to engage in secular activities or expression before, during, and after school hours. 403
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(B) A school district, community school established under Chapter 3314., STEM school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code shall give the same access to school facilities to students who wish to conduct a meeting for the purpose of engaging in religious expression as is given to secular student groups, without regard to the content of a student's or group's expression. 408
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Sec. 3320.03. No school district board of education, 416

governing authority of a community school established under 417
Chapter 3314. of the Revised Code, governing body of a STEM 418
school established under Chapter 3326. of the Revised Code, or 419
board of trustees of a college-preparatory boarding school 420
established under Chapter 3328. of the Revised Code shall 421
prohibit a student from engaging in religious expression in the 422
completion of homework, artwork, or other written or oral 423
assignments. Assignment grades and scores shall be calculated 424
using ordinary academic standards of substance and relevance, 425
including any legitimate pedagogical concerns, and shall not 426
penalize or reward a student based on the religious content of a 427
student's work. 428

Sec. 3326.11. Each science, technology, engineering, and 429
mathematics school established under this chapter and its 430
governing body shall comply with sections 9.90, 9.91, 109.65, 431
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 432
3301.0714, 3301.0715, 3301.0729, 3301.948, 3313.14, 3313.15, 433
3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 434
3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.5310, 435
3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 436
3313.6021, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 437
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 438
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 439
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 440
3313.721, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 441
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3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3319.46, 3320.01, 443
3320.02, 3320.03, 3321.01, 3321.041, 3321.05, 3321.13, 3321.14, 444
3321.141, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 445
4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 446
3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of 447

the Revised Code as if it were a school district. 448

Sec. 3328.24. A college-preparatory boarding school 449
established under this chapter and its board of trustees shall 450
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 451
3301.0714, 3301.0729, 3301.948, 3313.536, 3313.6013, 3313.6021, 452
3313.6411, 3313.7112, 3313.721, 3313.89, 3319.39, 3319.391, ~~and~~ 453
3319.46, 3320.01, 3320.02, and 3320.03 and Chapter 3365. of the 454
Revised Code as if the school were a school district and the 455
school's board of trustees were a district board of education. 456

Section 2. That existing sections 3313.601, 3314.03, 457
3326.11, and 3328.24 of the Revised Code are hereby repealed. 458

Section 3. Section 3328.24 of the Revised Code is 459
presented in this act as a composite of the section as amended 460
by both Am. Sub. H.B. 410 and Sub. S.B. 3 of the 131st General 461
Assembly. The General Assembly, applying the principle stated in 462
division (B) of section 1.52 of the Revised Code that amendments 463
are to be harmonized if reasonably capable of simultaneous 464
operation, finds that the composite is the resulting version of 465
the section in effect prior to the effective date of the section 466
as presented in this act. 467

Section 4. Nothing in this act is intended or shall be 468
construed to limit or abrogate religious expression of students 469
already guaranteed under the Ohio Constitution and the United 470
States Constitution. 471