

**As Reported by the House Community and Family Advancement
Committee**

131st General Assembly

**Regular Session
2015-2016**

Sub. H. B. No. 425

Representative Hayes

**Cosponsors: Representatives Becker, Green, Hood, Retherford, Romanchuk,
Thompson, Derickson, Ginter, Conditt, McClain, Patmon, Young**

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. 4

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

Section 1. That sections 3313.601, 3314.03, 3326.11, and 5
3328.24 be amended and sections 3320.01, 3320.02, and 3320.03 of 6
the Revised Code be enacted to read as follows: 7

Sec. 3313.601. The board of education of each school 8
district may provide for a moment of silence each school day for 9
prayer, reflection, or meditation upon a moral, philosophical, 10
or patriotic theme. No board of education, school, or employee 11
of the school district shall require a pupil to participate in a 12
moment of silence provided for pursuant to this section. No 13
board of education shall prohibit a classroom teacher from 14
providing in the teacher's classroom reasonable periods of time 15
for activities of a moral, philosophical, or patriotic theme. No 16
pupil shall be required to participate in such activities if 17

they are contrary to the religious convictions of the pupil or 18
the pupil's parents or guardians. 19

No board of education of a school district shall adopt any 20
policy or rule respecting or promoting an establishment of 21
religion or prohibiting any pupil from the free, individual, and 22
voluntary exercise or expression of the pupil's religious 23
beliefs in any primary or secondary school. ~~The board of 24
education may limit the exercise or expression of the pupil's 25
religious beliefs as described in this section to lunch periods 26
or other noninstructional time periods when pupils are free to 27
associate. 28~~

Sec. 3314.03. A copy of every contract entered into under 29
this section shall be filed with the superintendent of public 30
instruction. The department of education shall make available on 31
its web site a copy of every approved, executed contract filed 32
with the superintendent under this section. 33

(A) Each contract entered into between a sponsor and the 34
governing authority of a community school shall specify the 35
following: 36

(1) That the school shall be established as either of the 37
following: 38

(a) A nonprofit corporation established under Chapter 39
1702. of the Revised Code, if established prior to April 8, 40
2003; 41

(b) A public benefit corporation established under Chapter 42
1702. of the Revised Code, if established after April 8, 2003. 43

(2) The education program of the school, including the 44
school's mission, the characteristics of the students the school 45
is expected to attract, the ages and grades of students, and the 46

focus of the curriculum;	47
(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;	48 49 50 51
(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;	52 53 54 55
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	56 57 58
(6) (a) Dismissal procedures;	59
(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.	60 61 62 63 64 65
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	66 67
(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.	68 69 70 71 72 73
(9) An addendum to the contract outlining the facilities	74

to be used that contains at least the following information:	75
(a) A detailed description of each facility used for instructional purposes;	76 77
(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;	78 79
(c) The annual mortgage principal and interest payments that are paid by the school;	80 81
(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.	82 83 84
(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.	85 86 87 88 89 90
(11) That the school will comply with the following requirements:	91 92
(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.	93 94 95
(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.	96 97 98
(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.	99 100 101 102

(d) The school will comply with sections 9.90, 9.91, 103
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 104
3301.0711, 3301.0712, 3301.0715, 3301.948, 3313.472, 3313.50, 105
3313.536, 3313.539, 3313.608, 3313.609, 3313.6012, 3313.6013, 106
3313.6014, 3313.6015, 3313.6020, 3313.643, 3313.648, 3313.6411, 107
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 108
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 109
3313.718, 3313.719, 3313.7112, 3313.721, 3313.80, 3313.814, 110
3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 111
3319.321, 3319.39, 3319.391, 3319.41, 3319.46, 3320.01, 3320.02, 112
3320.03, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 113
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and 114
Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., 115
and 4167. of the Revised Code as if it were a school district 116
and will comply with section 3301.0714 of the Revised Code in 117
the manner specified in section 3314.17 of the Revised Code. 118

(e) The school shall comply with Chapter 102. and section 119
2921.42 of the Revised Code. 120

(f) The school will comply with sections 3313.61, 121
3313.611, and 3313.614 of the Revised Code, except that for 122
students who enter ninth grade for the first time before July 1, 123
2010, the requirement in sections 3313.61 and 3313.611 of the 124
Revised Code that a person must successfully complete the 125
curriculum in any high school prior to receiving a high school 126
diploma may be met by completing the curriculum adopted by the 127
governing authority of the community school rather than the 128
curriculum specified in Title XXXIII of the Revised Code or any 129
rules of the state board of education. Beginning with students 130
who enter ninth grade for the first time on or after July 1, 131
2010, the requirement in sections 3313.61 and 3313.611 of the 132
Revised Code that a person must successfully complete the 133

curriculum of a high school prior to receiving a high school 134
diploma shall be met by completing the requirements prescribed 135
in division (C) of section 3313.603 of the Revised Code, unless 136
the person qualifies under division (D) or (F) of that section. 137
Each school shall comply with the plan for awarding high school 138
credit based on demonstration of subject area competency, and 139
beginning with the 2016-2017 school year, with the updated plan 140
that permits students enrolled in seventh and eighth grade to 141
meet curriculum requirements based on subject area competency 142
adopted by the state board of education under divisions (J) (1) 143
and (2) of section 3313.603 of the Revised Code. 144

(g) The school governing authority will submit within four 145
months after the end of each school year a report of its 146
activities and progress in meeting the goals and standards of 147
divisions (A) (3) and (4) of this section and its financial 148
status to the sponsor and the parents of all students enrolled 149
in the school. 150

(h) The school, unless it is an internet- or computer- 151
based community school, will comply with section 3313.801 of the 152
Revised Code as if it were a school district. 153

(i) If the school is the recipient of moneys from a grant 154
awarded under the federal race to the top program, Division (A), 155
Title XIV, Sections 14005 and 14006 of the "American Recovery 156
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 157
the school will pay teachers based upon performance in 158
accordance with section 3317.141 and will comply with section 159
3319.111 of the Revised Code as if it were a school district. 160

(j) If the school operates a preschool program that is 161
licensed by the department of education under sections 3301.52 162
to 3301.59 of the Revised Code, the school shall comply with 163

sections 3301.50 to 3301.59 of the Revised Code and the minimum standards for preschool programs prescribed in rules adopted by the state board under section 3301.53 of the Revised Code.	164 165 166
(12) Arrangements for providing health and other benefits to employees;	167 168
(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.	169 170 171 172
(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;	173 174
(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.	175 176 177
(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;	178 179 180 181
(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;	182 183 184 185 186 187 188 189 190 191 192

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;	193 194 195
(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:	196 197 198 199 200 201
(a) Prohibit the enrollment of students who reside outside the district in which the school is located;	202 203
(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;	204 205 206
(c) Permit the enrollment of students who reside in any other district in the state.	207 208
(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;	209 210 211 212
(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;	213 214 215
(22) A provision recognizing both of the following:	216
(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;	217 218 219 220

(b) The authority of the department of education as the 221
community school oversight body to suspend the operation of the 222
school under section 3314.072 of the Revised Code if the 223
department has evidence of conditions or violations of law at 224
the school that pose an imminent danger to the health and safety 225
of the school's students and employees and the sponsor refuses 226
to take such action. 227

(23) A description of the learning opportunities that will 228
be offered to students including both classroom-based and non- 229
classroom-based learning opportunities that is in compliance 230
with criteria for student participation established by the 231
department under division (H) (2) of section 3314.08 of the 232
Revised Code; 233

(24) The school will comply with sections 3302.04 and 234
3302.041 of the Revised Code, except that any action required to 235
be taken by a school district pursuant to those sections shall 236
be taken by the sponsor of the school. However, the sponsor 237
shall not be required to take any action described in division 238
(F) of section 3302.04 of the Revised Code. 239

(25) Beginning in the 2006-2007 school year, the school 240
will open for operation not later than the thirtieth day of 241
September each school year, unless the mission of the school as 242
specified under division (A) (2) of this section is solely to 243
serve dropouts. In its initial year of operation, if the school 244
fails to open by the thirtieth day of September, or within one 245
year after the adoption of the contract pursuant to division (D) 246
of section 3314.02 of the Revised Code if the mission of the 247
school is solely to serve dropouts, the contract shall be void. 248

(26) Whether the school's governing authority is planning 249
to seek designation for the school as a STEM school equivalent 250

under section 3326.032 of the Revised Code;	251
(27) That the school's attendance and participation	252
policies will be available for public inspection;	253
(28) That the school's attendance and participation	254
records shall be made available to the department of education,	255
auditor of state, and school's sponsor to the extent permitted	256
under and in accordance with the "Family Educational Rights and	257
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended,	258
and any regulations promulgated under that act, and section	259
3319.321 of the Revised Code;	260
(29) If a school operates using the blended learning	261
model, as defined in section 3301.079 of the Revised Code, all	262
of the following information:	263
(a) An indication of what blended learning model or models	264
will be used;	265
(b) A description of how student instructional needs will	266
be determined and documented;	267
(c) The method to be used for determining competency,	268
granting credit, and promoting students to a higher grade level;	269
(d) The school's attendance requirements, including how	270
the school will document participation in learning	271
opportunities;	272
(e) A statement describing how student progress will be	273
monitored;	274
(f) A statement describing how private student data will	275
be protected;	276
(g) A description of the professional development	277

activities that will be offered to teachers.	278
(30) A provision requiring that all moneys the school's	279
operator loans to the school, including facilities loans or cash	280
flow assistance, must be accounted for, documented, and bear	281
interest at a fair market rate;	282
(31) A provision requiring that, if the governing	283
authority contracts with an attorney, accountant, or entity	284
specializing in audits, the attorney, accountant, or entity	285
shall be independent from the operator with which the school has	286
contracted.	287
(B) The community school shall also submit to the sponsor	288
a comprehensive plan for the school. The plan shall specify the	289
following:	290
(1) The process by which the governing authority of the	291
school will be selected in the future;	292
(2) The management and administration of the school;	293
(3) If the community school is a currently existing public	294
school or educational service center building, alternative	295
arrangements for current public school students who choose not	296
to attend the converted school and for teachers who choose not	297
to teach in the school or building after conversion;	298
(4) The instructional program and educational philosophy	299
of the school;	300
(5) Internal financial controls.	301
When submitting the plan under this division, the school	302
shall also submit copies of all policies and procedures	303
regarding internal financial controls adopted by the governing	304
authority of the school.	305

(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 335
the school to be on probationary status pursuant to section 336
3314.073 of the Revised Code, suspend the operation of the 337
school pursuant to section 3314.072 of the Revised Code, or 338
terminate the contract of the school pursuant to section 3314.07 339
of the Revised Code as determined necessary by the sponsor; 340

(6) Have in place a plan of action to be undertaken in the 341
event the community school experiences financial difficulties or 342
closes prior to the end of a school year. 343

(E) Upon the expiration of a contract entered into under 344
this section, the sponsor of a community school may, with the 345
approval of the governing authority of the school, renew that 346
contract for a period of time determined by the sponsor, but not 347
ending earlier than the end of any school year, if the sponsor 348
finds that the school's compliance with applicable laws and 349
terms of the contract and the school's progress in meeting the 350
academic goals prescribed in the contract have been 351
satisfactory. Any contract that is renewed under this division 352
remains subject to the provisions of sections 3314.07, 3314.072, 353
and 3314.073 of the Revised Code. 354

(F) If a community school fails to open for operation 355
within one year after the contract entered into under this 356
section is adopted pursuant to division (D) of section 3314.02 357
of the Revised Code or permanently closes prior to the 358
expiration of the contract, the contract shall be void and the 359
school shall not enter into a contract with any other sponsor. A 360
school shall not be considered permanently closed because the 361
operations of the school have been suspended pursuant to section 362
3314.072 of the Revised Code. 363

Sec. 3320.01. (A) Sections 3320.01, 3320.02, and 3320.03 364

of the Revised Code shall be collectively known as the "Ohio Student Religious Liberties Act of 2016." 365
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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: 367
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(1) Prayer; 369

(2) Religious gatherings, including but not limited to prayer groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings; 370
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(3) Distribution of written materials or literature of a religious nature; 373
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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. 375
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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. 379
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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. 384
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Sec. 3320.03. No school district board of education, 392

governing authority of a community school established under 393
Chapter 3314. of the Revised Code, or governing body of a STEM 394
school established under Chapter 3326. of the Revised Code, or 395
board of trustees of a college-preparatory boarding school 396
established under Chapter 3328. of the Revised Code shall 397
prohibit a student from engaging in religious expression in the 398
completion of homework, artwork, or other written or oral 399
assignments. Assignment grades and scores shall be calculated 400
using ordinary academic standards of substance and relevance, 401
including any legitimate pedagogical concerns, and shall not 402
penalize or reward a student based on the religious content of a 403
student's work. 404

Sec. 3326.11. Each science, technology, engineering, and 405
mathematics school established under this chapter and its 406
governing body shall comply with sections 9.90, 9.91, 109.65, 407
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 408
3301.0714, 3301.0715, 3301.948, 3313.14, 3313.15, 3313.16, 409
3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 410
3313.482, 3313.50, 3313.536, 3313.539, 3313.608, 3313.6012, 411
3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.61, 3313.611, 412
3313.614, 3313.615, 3313.643, 3313.648, 3313.6411, 3313.66, 413
3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 414
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 415
3313.719, 3313.7112, 3317.721, 3313.80, 3313.801, 3313.814, 416
3313.816, 3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 417
3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 418
3319.45, 3319.46, 3320.01, 3320.02, 3320.03, 3321.01, 3321.041, 419
3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 420
4111.17, 4113.52, and 5705.391 and Chapters 102., 117., 1347., 421
2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 422
4167. of the Revised Code as if it were a school district. 423

Sec. 3328.24. A college-preparatory boarding school 424
established under this chapter and its board of trustees shall 425
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 426
3301.0714, 3301.948, 3313.536, 3313.6013, 3313.6411, 3313.7112, 427
3313.721, 3313.89, 3319.39, 3319.391, ~~and 3319.46, 3320.01,~~ 428
3320.02, and 3320.03 and Chapter 3365. of the Revised Code as if 429
the school were a school district and the school's board of 430
trustees were a district board of education. 431

Section 2. That existing sections 3313.601, 3314.03, 432
3326.11, and 3328.24 of the Revised Code are hereby repealed. 433

Section 3. Section 3314.03 of the Revised Code is 434
presented in this act as a composite of the section as amended 435
by both Am. Sub. H.B. 2 and Am. Sub. H.B. 64 of the 131st 436
General Assembly. The General Assembly, applying the principle 437
stated in division (B) of section 1.52 of the Revised Code that 438
amendments are to be harmonized if reasonably capable of 439
simultaneous operation, finds that the composite is the 440
resulting version of the section in effect prior to the 441
effective date of the section as presented in this act. 442