

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 325

Senator Kunze

A BILL

To amend sections 3314.03, 3326.11, and 3328.24 and 1
to enact sections 3319.393 and 3319.394 of the 2
Revised Code with regard to background check 3
policies and sexual misconduct policies for 4
public and chartered nonpublic schools. 5

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

Section 1. That sections 3314.03, 3326.11, and 3328.24 be 6
amended and sections 3319.393 and 3319.394 of the Revised Code 7
be enacted to read as follows: 8

Sec. 3314.03. A copy of every contract entered into under 9
this section shall be filed with the superintendent of public 10
instruction. The department of education shall make available on 11
its web site a copy of every approved, executed contract filed 12
with the superintendent under this section. 13

(A) Each contract entered into between a sponsor and the 14
governing authority of a community school shall specify the 15
following: 16

(1) That the school shall be established as either of the 17
following: 18

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;	19 20 21
(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.	22 23
(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;	24 25 26 27
(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;	28 29 30 31
(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;	32 33 34 35
(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	36 37 38
(6) (a) Dismissal procedures;	39
(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.	40 41 42 43 44 45
(7) The ways by which the school will achieve racial and	46

ethnic balance reflective of the community it serves; 47

(8) Requirements for financial audits by the auditor of 48
state. The contract shall require financial records of the 49
school to be maintained in the same manner as are financial 50
records of school districts, pursuant to rules of the auditor of 51
state. Audits shall be conducted in accordance with section 52
117.10 of the Revised Code. 53

(9) An addendum to the contract outlining the facilities 54
to be used that contains at least the following information: 55

(a) A detailed description of each facility used for 56
instructional purposes; 57

(b) The annual costs associated with leasing each facility 58
that are paid by or on behalf of the school; 59

(c) The annual mortgage principal and interest payments 60
that are paid by the school; 61

(d) The name of the lender or landlord, identified as 62
such, and the lender's or landlord's relationship to the 63
operator, if any. 64

(10) Qualifications of teachers, including a requirement 65
that the school's classroom teachers be licensed in accordance 66
with sections 3319.22 to 3319.31 of the Revised Code, except 67
that a community school may engage noncertificated persons to 68
teach up to twelve hours per week pursuant to section 3319.301 69
of the Revised Code. 70

(11) That the school will comply with the following 71
requirements: 72

(a) The school will provide learning opportunities to a 73
minimum of twenty-five students for a minimum of nine hundred 74

twenty hours per school year. 75

(b) The governing authority will purchase liability 76
insurance, or otherwise provide for the potential liability of 77
the school. 78

(c) The school will be nonsectarian in its programs, 79
admission policies, employment practices, and all other 80
operations, and will not be operated by a sectarian school or 81
religious institution. 82

(d) The school will comply with sections 9.90, 9.91, 83
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 84
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3313.472, 85
3313.50, 3313.536, 3313.539, 3313.5310, 3313.608, 3313.609, 86
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.643, 87
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 88
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 89
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 90
3313.721, 3313.80, 3313.814, 3313.816, 3313.817, 3313.86, 91
3313.89, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 92
3319.393, 3319.394, 3319.41, 3319.46, 3321.01, 3321.041, 93
3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 94
4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 95
3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code 96
as if it were a school district and will comply with section 97
3301.0714 of the Revised Code in the manner specified in section 98
3314.17 of the Revised Code. 99

(e) The school shall comply with Chapter 102. and section 100
2921.42 of the Revised Code. 101

(f) The school will comply with sections 3313.61, 102
3313.611, and 3313.614 of the Revised Code, except that for 103

students who enter ninth grade for the first time before July 1, 104
2010, the requirement in sections 3313.61 and 3313.611 of the 105
Revised Code that a person must successfully complete the 106
curriculum in any high school prior to receiving a high school 107
diploma may be met by completing the curriculum adopted by the 108
governing authority of the community school rather than the 109
curriculum specified in Title XXXVIII of the Revised Code or any 110
rules of the state board of education. Beginning with students 111
who enter ninth grade for the first time on or after July 1, 112
2010, the requirement in sections 3313.61 and 3313.611 of the 113
Revised Code that a person must successfully complete the 114
curriculum of a high school prior to receiving a high school 115
diploma shall be met by completing the requirements prescribed 116
in division (C) of section 3313.603 of the Revised Code, unless 117
the person qualifies under division (D) or (F) of that section. 118
Each school shall comply with the plan for awarding high school 119
credit based on demonstration of subject area competency, and 120
beginning with the 2017-2018 school year, with the updated plan 121
that permits students enrolled in seventh and eighth grade to 122
meet curriculum requirements based on subject area competency 123
adopted by the state board of education under divisions (J) (1) 124
and (2) of section 3313.603 of the Revised Code. Beginning with 125
the 2018-2019 school year, the school shall comply with the 126
framework for granting units of high school credit to students 127
who demonstrate subject area competency through work-based 128
learning experiences, internships, or cooperative education 129
developed by the department under division (J) (3) of section 130
3313.603 of the Revised Code. 131

(g) The school governing authority will submit within four 132
months after the end of each school year a report of its 133
activities and progress in meeting the goals and standards of 134

divisions (A) (3) and (4) of this section and its financial 135
status to the sponsor and the parents of all students enrolled 136
in the school. 137

(h) The school, unless it is an internet- or computer- 138
based community school, will comply with section 3313.801 of the 139
Revised Code as if it were a school district. 140

(i) If the school is the recipient of moneys from a grant 141
awarded under the federal race to the top program, Division (A), 142
Title XIV, Sections 14005 and 14006 of the "American Recovery 143
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 144
the school will pay teachers based upon performance in 145
accordance with section 3317.141 and will comply with section 146
3319.111 of the Revised Code as if it were a school district. 147

(j) If the school operates a preschool program that is 148
licensed by the department of education under sections 3301.52 149
to 3301.59 of the Revised Code, the school shall comply with 150
sections 3301.50 to 3301.59 of the Revised Code and the minimum 151
standards for preschool programs prescribed in rules adopted by 152
the state board under section 3301.53 of the Revised Code. 153

(k) The school will comply with sections 3313.6021 and 154
3313.6023 of the Revised Code as if it were a school district 155
unless it is either of the following: 156

(i) An internet- or computer-based community school; 157

(ii) A community school in which a majority of the 158
enrolled students are children with disabilities as described in 159
division (A) (4) (b) of section 3314.35 of the Revised Code. 160

(12) Arrangements for providing health and other benefits 161
to employees; 162

(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.

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

(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.

(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;

(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;

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

(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:

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

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

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

(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;

(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;

(22) A provision recognizing both of the following:

(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;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety

of the school's students and employees and the sponsor refuses 220
to take such action. 221

(23) A description of the learning opportunities that will 222
be offered to students including both classroom-based and non- 223
classroom-based learning opportunities that is in compliance 224
with criteria for student participation established by the 225
department under division (H) (2) of section 3314.08 of the 226
Revised Code; 227

(24) The school will comply with sections 3302.04 and 228
3302.041 of the Revised Code, except that any action required to 229
be taken by a school district pursuant to those sections shall 230
be taken by the sponsor of the school. However, the sponsor 231
shall not be required to take any action described in division 232
(F) of section 3302.04 of the Revised Code. 233

(25) Beginning in the 2006-2007 school year, the school 234
will open for operation not later than the thirtieth day of 235
September each school year, unless the mission of the school as 236
specified under division (A) (2) of this section is solely to 237
serve dropouts. In its initial year of operation, if the school 238
fails to open by the thirtieth day of September, or within one 239
year after the adoption of the contract pursuant to division (D) 240
of section 3314.02 of the Revised Code if the mission of the 241
school is solely to serve dropouts, the contract shall be void. 242

(26) Whether the school's governing authority is planning 243
to seek designation for the school as a STEM school equivalent 244
under section 3326.032 of the Revised Code; 245

(27) That the school's attendance and participation 246
policies will be available for public inspection; 247

(28) That the school's attendance and participation 248

records shall be made available to the department of education, 249
auditor of state, and school's sponsor to the extent permitted 250
under and in accordance with the "Family Educational Rights and 251
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, 252
and any regulations promulgated under that act, and section 253
3319.321 of the Revised Code; 254

(29) If a school operates using the blended learning 255
model, as defined in section 3301.079 of the Revised Code, all 256
of the following information: 257

(a) An indication of what blended learning model or models 258
will be used; 259

(b) A description of how student instructional needs will 260
be determined and documented; 261

(c) The method to be used for determining competency, 262
granting credit, and promoting students to a higher grade level; 263

(d) The school's attendance requirements, including how 264
the school will document participation in learning 265
opportunities; 266

(e) A statement describing how student progress will be 267
monitored; 268

(f) A statement describing how private student data will 269
be protected; 270

(g) A description of the professional development 271
activities that will be offered to teachers. 272

(30) A provision requiring that all moneys the school's 273
operator loans to the school, including facilities loans or cash 274
flow assistance, must be accounted for, documented, and bear 275
interest at a fair market rate; 276

(31) A provision requiring that, if the governing	277
authority contracts with an attorney, accountant, or entity	278
specializing in audits, the attorney, accountant, or entity	279
shall be independent from the operator with which the school has	280
contracted.	281
(B) The community school shall also submit to the sponsor	282
a comprehensive plan for the school. The plan shall specify the	283
following:	284
(1) The process by which the governing authority of the	285
school will be selected in the future;	286
(2) The management and administration of the school;	287
(3) If the community school is a currently existing public	288
school or educational service center building, alternative	289
arrangements for current public school students who choose not	290
to attend the converted school and for teachers who choose not	291
to teach in the school or building after conversion;	292
(4) The instructional program and educational philosophy	293
of the school;	294
(5) Internal financial controls.	295
When submitting the plan under this division, the school	296
shall also submit copies of all policies and procedures	297
regarding internal financial controls adopted by the governing	298
authority of the school.	299
(C) A contract entered into under section 3314.02 of the	300
Revised Code between a sponsor and the governing authority of a	301
community school may provide for the community school governing	302
authority to make payments to the sponsor, which is hereby	303
authorized to receive such payments as set forth in the contract	304

between the governing authority and the sponsor. The total 305
amount of such payments for monitoring, oversight, and technical 306
assistance of the school shall not exceed three per cent of the 307
total amount of payments for operating expenses that the school 308
receives from the state. 309

(D) The contract shall specify the duties of the sponsor 310
which shall be in accordance with the written agreement entered 311
into with the department of education under division (B) of 312
section 3314.015 of the Revised Code and shall include the 313
following: 314

(1) Monitor the community school's compliance with all 315
laws applicable to the school and with the terms of the 316
contract; 317

(2) Monitor and evaluate the academic and fiscal 318
performance and the organization and operation of the community 319
school on at least an annual basis; 320

(3) Report on an annual basis the results of the 321
evaluation conducted under division (D) (2) of this section to 322
the department of education and to the parents of students 323
enrolled in the community school; 324

(4) Provide technical assistance to the community school 325
in complying with laws applicable to the school and terms of the 326
contract; 327

(5) Take steps to intervene in the school's operation to 328
correct problems in the school's overall performance, declare 329
the school to be on probationary status pursuant to section 330
3314.073 of the Revised Code, suspend the operation of the 331
school pursuant to section 3314.072 of the Revised Code, or 332
terminate the contract of the school pursuant to section 3314.07 333

of the Revised Code as determined necessary by the sponsor; 334

(6) Have in place a plan of action to be undertaken in the 335
event the community school experiences financial difficulties or 336
closes prior to the end of a school year. 337

(E) Upon the expiration of a contract entered into under 338
this section, the sponsor of a community school may, with the 339
approval of the governing authority of the school, renew that 340
contract for a period of time determined by the sponsor, but not 341
ending earlier than the end of any school year, if the sponsor 342
finds that the school's compliance with applicable laws and 343
terms of the contract and the school's progress in meeting the 344
academic goals prescribed in the contract have been 345
satisfactory. Any contract that is renewed under this division 346
remains subject to the provisions of sections 3314.07, 3314.072, 347
and 3314.073 of the Revised Code. 348

(F) If a community school fails to open for operation 349
within one year after the contract entered into under this 350
section is adopted pursuant to division (D) of section 3314.02 351
of the Revised Code or permanently closes prior to the 352
expiration of the contract, the contract shall be void and the 353
school shall not enter into a contract with any other sponsor. A 354
school shall not be considered permanently closed because the 355
operations of the school have been suspended pursuant to section 356
3314.072 of the Revised Code. 357

Sec. 3319.393. (A) Each school district and chartered 358
nonpublic school shall include the following notice in boldface 359
type in each employment application: "ANY PERSON WHO KNOWINGLY 360
MAKES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 361
2921.13 OF THE REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST 362
DEGREE." 363

(B) Prior to employing any individual, each district and 364
chartered nonpublic school shall consult the "educator profile" 365
database maintained on the web site of the department of 366
education and may further consult with the office of 367
professional conduct within the department to determine whether 368
the individual has been the subject of either: 369

(1) Any notice to the department under section 3314.40, 370
3319.313, 3326.24, 3328.19, or 5126.253 of the Revised Code; 371

(2) Any disciplinary actions conducted by the department. 372

The district or chartered nonpublic school may employ an 373
individual conditionally pending the receipt of the information 374
described in divisions (B)(1) and (2) of this section. Should 375
that information indicate that the individual has been subject 376
to either division (B)(1) or (2) of this section, the district 377
or the chartered nonpublic school may release the individual 378
from employment. 379

(C) When a complaint is filed against an employee of a 380
school district or chartered nonpublic school alleging 381
misconduct by that employee, the district or school shall 382
conduct a review of the personnel file of that employee to 383
investigate any recorded instance of misconduct or disciplinary 384
actions contained in that employee's file. Each district or 385
school shall establish policies for periodic review of personnel 386
files. Each district and school shall designate an individual 387
who is authorized to review personnel files under this division. 388

(D) Each district and chartered nonpublic school shall 389
consult with any prior education-related employers of an 390
applicant for employment. 391

(E) A district or chartered nonpublic school may require 392

any applicant for employment or a volunteer to undergo 393
additional background checks other than the criminal records 394
checks authorized under sections 109.574 to 109.577 of the 395
Revised Code or those required under section 3319.39 or 3319.391 396
of the Revised Code. 397

(F) Any employee or officer of a district or chartered 398
nonpublic school who does not report an instance of child abuse 399
or neglect, including sexual conduct or sexual relationships 400
between students and adults, as required under section 2151.421 401
of the Revised Code, may face disciplinary action up to and 402
including termination. 403

(G) A district or chartered nonpublic school may provide 404
counseling to a victim of sexual harassment or sexually related 405
conduct. 406

Sec. 3319.394. If a school district or chartered nonpublic 407
school receives a request for the personnel file of a current or 408
former employee from a district or chartered nonpublic school to 409
which the current or former employee has applied for employment, 410
the district or chartered nonpublic school that receives the 411
request shall send that file to the requestor within twenty 412
business days of receiving the request for hiring purposes. 413

If the district or school receiving the request determines 414
that it is not possible to send the file within twenty business 415
days, that district or school shall promptly notify the 416
requestor and indicate the reason the information cannot be sent 417
within that time. 418

Sec. 3326.11. Each science, technology, engineering, and 419
mathematics school established under this chapter and its 420
governing body shall comply with sections 9.90, 9.91, 109.65, 421

121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 422
3301.0714, 3301.0715, 3301.0729, 3301.948, 3313.14, 3313.15, 423
3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 424
3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.5310, 425
3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 426
3313.6021, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 427
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 428
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 429
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 430
3313.721, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 431
3313.86, 3313.89, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 432
3319.35, 3319.39, 3319.391, 3319.393, 3319.394, 3319.41, 433
3319.45, 3319.46, 3321.01, 3321.041, 3321.05, 3321.13, 3321.14, 434
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, 435
and 5705.391 and Chapters 102., 117., 1347., 2744., 3307., 436
3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the 437
Revised Code as if it were a school district. 438

Sec. 3328.24. A college-preparatory boarding school 439
established under this chapter and its board of trustees shall 440
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 441
3301.0714, 3301.0729, 3301.948, 3313.536, 3313.6013, 3313.6021, 442
3313.6411, 3313.7112, 3313.721, 3313.89, 3319.39, 3319.391, 443
3319.393, 3319.394, and 3319.46 and Chapter 3365. of the Revised 444
Code as if the school were a school district and the school's 445
board of trustees were a district board of education. 446

Section 2. That existing sections 3314.03, 3326.11, and 447
3328.24 of the Revised Code are hereby repealed. 448

Section 3. Section 3328.24 of the Revised Code is 449
presented in this act as a composite of the section as amended 450
by both Am. Sub. H.B. 410 and Sub. S.B. 3 of the 131st General 451

Assembly. The General Assembly, applying the principle stated in 452
division (B) of section 1.52 of the Revised Code that amendments 453
are to be harmonized if reasonably capable of simultaneous 454
operation, finds that the composite is the resulting version of 455
the section in effect prior to the effective date of the section 456
as presented in this act. 457