

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**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**

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**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 46

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;

(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;

(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;

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6) (a) Dismissal procedures;

(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.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(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.

(9) An addendum to the contract outlining the facilities	76
to be used that contains at least the following information:	77
(a) A detailed description of each facility used for	78
instructional purposes;	79
(b) The annual costs associated with leasing each facility	80
that are paid by or on behalf of the school;	81
(c) The annual mortgage principal and interest payments	82
that are paid by the school;	83
(d) The name of the lender or landlord, identified as	84
such, and the lender's or landlord's relationship to the	85
operator, if any.	86
(10) Qualifications of teachers, including a requirement	87
that the school's classroom teachers be licensed in accordance	88
with sections 3319.22 to 3319.31 of the Revised Code, except	89
that a community school may engage noncertificated persons to	90
teach up to twelve hours per week pursuant to section 3319.301	91
of the Revised Code.	92
(11) That the school will comply with the following	93
requirements:	94
(a) The school will provide learning opportunities to a	95
minimum of twenty-five students for a minimum of nine hundred	96
twenty hours per school year.	97
(b) The governing authority will purchase liability	98
insurance, or otherwise provide for the potential liability of	99
the school.	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 277  
model, as defined in section 3301.079 of the Revised Code, all 278

of the following information:	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 contracted.	299 300 301 302 303
(32) A provision requiring the governing authority to adopt an enrollment and attendance policy that requires a	304 305

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 330  
Revised Code between a sponsor and the governing authority of a 331  
community school may provide for the community school governing 332  
authority to make payments to the sponsor, which is hereby 333

authorized to receive such payments as set forth in the contract 334  
between the governing authority and the sponsor. The total 335  
amount of such payments for monitoring, oversight, and technical 336  
assistance of the school shall not exceed three per cent of the 337  
total amount of payments for operating expenses that the school 338  
receives from the state. 339

(D) The contract shall specify the duties of the sponsor 340  
which shall be in accordance with the written agreement entered 341  
into with the department of education under division (B) of 342  
section 3314.015 of the Revised Code and shall include the 343  
following: 344

(1) Monitor the community school's compliance with all 345  
laws applicable to the school and with the terms of the 346  
contract; 347

(2) Monitor and evaluate the academic and fiscal 348  
performance and the organization and operation of the community 349  
school on at least an annual basis; 350

(3) Report on an annual basis the results of the 351  
evaluation conducted under division (D) (2) of this section to 352  
the department of education and to the parents of students 353  
enrolled in the community school; 354

(4) Provide technical assistance to the community school 355  
in complying with laws applicable to the school and terms of the 356  
contract; 357

(5) Take steps to intervene in the school's operation to 358  
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 389  
Student Religious Liberties Act of 2019." 390

(B) As used in sections 3320.01 to 3320.03 of the Revised 391

<u>Code, "religious expression" includes any of the following:</u>	392
<u>(1) Prayer;</u>	393
<u>(2) Religious gatherings, including but not limited to</u>	394
<u>prayer groups, religious clubs, "see you at the pole"</u>	395
<u>gatherings, or other religious gatherings;</u>	396
<u>(3) Distribution of written materials or literature of a</u>	397
<u>religious nature;</u>	398
<u>(4) Any other activity of a religious nature, including</u>	399
<u>wearing symbolic clothing or expression of a religious</u>	400
<u>viewpoint, provided that the activity is not obscene, vulgar,</u>	401
<u>offensively lewd, or indecent.</u>	402
<u><b>Sec. 3320.02.</b> (A) A student enrolled in a public school</u>	403
<u>may engage in religious expression before, during, and after</u>	404
<u>school hours in the same manner and to the same extent that a</u>	405
<u>student is permitted to engage in secular activities or</u>	406
<u>expression before, during, and after school hours.</u>	407
<u>(B) A school district, community school established under</u>	408
<u>Chapter 3314., STEM school established under Chapter 3326., or a</u>	409
<u>college-preparatory boarding school established under Chapter</u>	410
<u>3328. of the Revised Code shall give the same access to school</u>	411
<u>facilities to students who wish to conduct a meeting for the</u>	412
<u>purpose of engaging in religious expression as is given to</u>	413
<u>secular student groups, without regard to the content of a</u>	414
<u>student's or group's expression.</u>	415
<u><b>Sec. 3320.03.</b> No school district board of education,</u>	416
<u>governing authority of a community school established under</u>	417
<u>Chapter 3314. of the Revised Code, governing body of a STEM</u>	418
<u>school established under Chapter 3326. of the Revised Code, or</u>	419
<u>board of trustees of a college-preparatory boarding school</u>	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  
3313.86, 3313.89, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 442  
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