

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 209

Senator Brenner

A BILL

To amend sections 3314.03, 3326.11, and 3328.24 and 1
to enact sections 3313.7117, 3345.0215, and 2
4101.17 of the Revised Code with regard to mask 3
mandates and facial covering requirements for 4
public schools, state institutions of higher 5
education, and businesses. 6

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

Section 1. That sections 3314.03, 3326.11, and 3328.24 be 7
amended and sections 3313.7117, 3345.0215, and 4101.17 of the 8
Revised Code be enacted to read as follows: 9

Sec. 3313.7117. Notwithstanding any provision of the 10
Revised Code or any order, rule, or other law to the contrary, 11
after the 2020-2021 school year, the state board of education, 12
the department of education, and the board of education of any 13
school district shall not require any individual, including 14
students, teachers, other school employees, and visitors, to 15
wear a facial covering to attend or participate in in-person 16
instruction, school-sponsored athletics, or another school- 17
sponsored extracurricular activity, or in any other place on 18
school premises, as defined in section 3313.77 of the Revised 19

Code. An individual may choose to wear a facial covering but 20
shall not be required to do so. 21

Nothing in this section restricts a board of health of a 22
city or general health district or the authority having the 23
duties of a board of health under section 3709.05 of the Revised 24
Code, from taking action to prevent the spread of a communicable 25
or contagious disease. 26

Sec. 3314.03. A copy of every contract entered into under 27
this section shall be filed with the superintendent of public 28
instruction. The department of education shall make available on 29
its web site a copy of every approved, executed contract filed 30
with the superintendent under this section. 31

(A) Each contract entered into between a sponsor and the 32
governing authority of a community school shall specify the 33
following: 34

(1) That the school shall be established as either of the 35
following: 36

(a) A nonprofit corporation established under Chapter 37
1702. of the Revised Code, if established prior to April 8, 38
2003; 39

(b) A public benefit corporation established under Chapter 40
1702. of the Revised Code, if established after April 8, 2003. 41

(2) The education program of the school, including the 42
school's mission, the characteristics of the students the school 43
is expected to attract, the ages and grades of students, and the 44
focus of the curriculum; 45

(3) The academic goals to be achieved and the method of 46
measurement that will be used to determine progress toward those 47

goals, which shall include the statewide achievement 48
assessments; 49

(4) Performance standards, including but not limited to 50
all applicable report card measures set forth in section 3302.03 51
or 3314.017 of the Revised Code, by which the success of the 52
school will be evaluated by the sponsor; 53

(5) The admission standards of section 3314.06 of the 54
Revised Code and, if applicable, section 3314.061 of the Revised 55
Code; 56

(6) (a) Dismissal procedures; 57

(b) A requirement that the governing authority adopt an 58
attendance policy that includes a procedure for automatically 59
withdrawing a student from the school if the student without a 60
legitimate excuse fails to participate in seventy-two 61
consecutive hours of the learning opportunities offered to the 62
student. 63

(7) The ways by which the school will achieve racial and 64
ethnic balance reflective of the community it serves; 65

(8) Requirements for financial audits by the auditor of 66
state. The contract shall require financial records of the 67
school to be maintained in the same manner as are financial 68
records of school districts, pursuant to rules of the auditor of 69
state. Audits shall be conducted in accordance with section 70
117.10 of the Revised Code. 71

(9) An addendum to the contract outlining the facilities 72
to be used that contains at least the following information: 73

(a) A detailed description of each facility used for 74
instructional purposes; 75

(b) The annual costs associated with leasing each facility	76
that are paid by or on behalf of the school;	77
(c) The annual mortgage principal and interest payments	78
that are paid by the school;	79
(d) The name of the lender or landlord, identified as	80
such, and the lender's or landlord's relationship to the	81
operator, if any.	82
(10) Qualifications of teachers, including a requirement	83
that the school's classroom teachers be licensed in accordance	84
with sections 3319.22 to 3319.31 of the Revised Code, except	85
that a community school may engage noncertificated persons to	86
teach up to twelve hours or forty hours per week pursuant to	87
section 3319.301 of the Revised Code.	88
(11) That the school will comply with the following	89
requirements:	90
(a) The school will provide learning opportunities to a	91
minimum of twenty-five students for a minimum of nine hundred	92
twenty hours per school year.	93
(b) The governing authority will purchase liability	94
insurance, or otherwise provide for the potential liability of	95
the school.	96
(c) The school will be nonsectarian in its programs,	97
admission policies, employment practices, and all other	98
operations, and will not be operated by a sectarian school or	99
religious institution.	100
(d) The school will comply with sections 9.90, 9.91,	101
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710,	102
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3313.472,	103

3313.50, 3313.539, 3313.5310, 3313.608, 3313.609, 3313.6012, 104
3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.6024, 105
3313.6025, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 106
3313.662, 3313.666, 3313.667, 3313.668, 3313.669, 3313.6610, 107
3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 108
3313.716, 3313.718, 3313.719, 3313.7112, 3313.7117, 3313.721, 109
3313.80, 3313.814, 3313.816, 3313.817, 3313.818, 3313.86, 110
3313.89, 3313.96, 3319.073, 3319.077, 3319.078, 3319.321, 111
3319.39, 3319.391, 3319.41, 3319.46, 3320.01, 3320.02, 3320.03, 112
3321.01, 3321.041, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 113
3321.19, 3323.251, 3327.10, 4111.17, 4113.52, 5502.262, and 114
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 115
4123., 4141., and 4167. of the Revised Code as if it were a 116
school district and will comply with section 3301.0714 of the 117
Revised Code in the manner specified in section 3314.17 of the 118
Revised Code. 119

(e) The school shall comply with Chapter 102. and section 120
2921.42 of the Revised Code. 121

(f) The school will comply with sections 3313.61, 122
3313.611, 3313.614, 3313.617, 3313.618, and 3313.6114 of the 123
Revised Code, except that for students who enter ninth grade for 124
the first time before July 1, 2010, the requirement in sections 125
3313.61 and 3313.611 of the Revised Code that a person must 126
successfully complete the curriculum in any high school prior to 127
receiving a high school diploma may be met by completing the 128
curriculum adopted by the governing authority of the community 129
school rather than the curriculum specified in Title XXXIII of 130
the Revised Code or any rules of the state board of education. 131
Beginning with students who enter ninth grade for the first time 132
on or after July 1, 2010, the requirement in sections 3313.61 133
and 3313.611 of the Revised Code that a person must successfully 134

complete the curriculum of a high school prior to receiving a 135
high school diploma shall be met by completing the requirements 136
prescribed in division (C) of section 3313.603 of the Revised 137
Code, unless the person qualifies under division (D) or (F) of 138
that section. Each school shall comply with the plan for 139
awarding high school credit based on demonstration of subject 140
area competency, and beginning with the 2017-2018 school year, 141
with the updated plan that permits students enrolled in seventh 142
and eighth grade to meet curriculum requirements based on 143
subject area competency adopted by the state board of education 144
under divisions (J) (1) and (2) of section 3313.603 of the 145
Revised Code. Beginning with the 2018-2019 school year, the 146
school shall comply with the framework for granting units of 147
high school credit to students who demonstrate subject area 148
competency through work-based learning experiences, internships, 149
or cooperative education developed by the department under 150
division (J) (3) of section 3313.603 of the Revised Code. 151

(g) The school governing authority will submit within four 152
months after the end of each school year a report of its 153
activities and progress in meeting the goals and standards of 154
divisions (A) (3) and (4) of this section and its financial 155
status to the sponsor and the parents of all students enrolled 156
in the school. 157

(h) The school, unless it is an internet- or computer- 158
based community school, will comply with section 3313.801 of the 159
Revised Code as if it were a school district. 160

(i) If the school is the recipient of moneys from a grant 161
awarded under the federal race to the top program, Division (A), 162
Title XIV, Sections 14005 and 14006 of the "American Recovery 163
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 164

the school will pay teachers based upon performance in 165
accordance with section 3317.141 and will comply with section 166
3319.111 of the Revised Code as if it were a school district. 167

(j) If the school operates a preschool program that is 168
licensed by the department of education under sections 3301.52 169
to 3301.59 of the Revised Code, the school shall comply with 170
sections 3301.50 to 3301.59 of the Revised Code and the minimum 171
standards for preschool programs prescribed in rules adopted by 172
the state board under section 3301.53 of the Revised Code. 173

(k) The school will comply with sections 3313.6021 and 174
3313.6023 of the Revised Code as if it were a school district 175
unless it is either of the following: 176

(i) An internet- or computer-based community school; 177

(ii) A community school in which a majority of the 178
enrolled students are children with disabilities as described in 179
division (A) (4) (b) of section 3314.35 of the Revised Code. 180

(l) The school will comply with section 3321.191 of the 181
Revised Code, unless it is an internet- or computer-based 182
community school that is subject to section 3314.261 of the 183
Revised Code. 184

(12) Arrangements for providing health and other benefits 185
to employees; 186

(13) The length of the contract, which shall begin at the 187
beginning of an academic year. No contract shall exceed five 188
years unless such contract has been renewed pursuant to division 189
(E) of this section. 190

(14) The governing authority of the school, which shall be 191
responsible for carrying out the provisions of the contract; 192

(15) A financial plan detailing an estimated school budget	193
for each year of the period of the contract and specifying the	194
total estimated per pupil expenditure amount for each such year.	195
(16) Requirements and procedures regarding the disposition	196
of employees of the school in the event the contract is	197
terminated or not renewed pursuant to section 3314.07 of the	198
Revised Code;	199
(17) Whether the school is to be created by converting all	200
or part of an existing public school or educational service	201
center building or is to be a new start-up school, and if it is	202
a converted public school or service center building,	203
specification of any duties or responsibilities of an employer	204
that the board of education or service center governing board	205
that operated the school or building before conversion is	206
delegating to the governing authority of the community school	207
with respect to all or any specified group of employees provided	208
the delegation is not prohibited by a collective bargaining	209
agreement applicable to such employees;	210
(18) Provisions establishing procedures for resolving	211
disputes or differences of opinion between the sponsor and the	212
governing authority of the community school;	213
(19) A provision requiring the governing authority to	214
adopt a policy regarding the admission of students who reside	215
outside the district in which the school is located. That policy	216
shall comply with the admissions procedures specified in	217
sections 3314.06 and 3314.061 of the Revised Code and, at the	218
sole discretion of the authority, shall do one of the following:	219
(a) Prohibit the enrollment of students who reside outside	220
the district in which the school is located;	221

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;	222 223 224
(c) Permit the enrollment of students who reside in any other district in the state.	225 226
(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;	227 228 229 230
(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;	231 232 233
(22) A provision recognizing both of the following:	234
(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;	235 236 237 238
(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 to take such action.	239 240 241 242 243 244 245
(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (H) (2) of section 3314.08 of the	246 247 248 249 250

Revised Code;	251
(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of section 3302.04 of the Revised Code.	252 253 254 255 256 257
(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A) (2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.	258 259 260 261 262 263 264 265 266
(26) Whether the school's governing authority is planning to seek designation for the school as a STEM school equivalent under section 3326.032 of the Revised Code;	267 268 269
(27) That the school's attendance and participation policies will be available for public inspection;	270 271
(28) That the school's attendance and participation records shall be made available to the department of education, auditor of state, and school's sponsor to the extent permitted under and in accordance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and any regulations promulgated under that act, and section 3319.321 of the Revised Code;	272 273 274 275 276 277 278
(29) If a school operates using the blended learning	279

model, as defined in section 3301.079 of the Revised Code, all	280
of the following information:	281
(a) An indication of what blended learning model or models will be used;	282 283
(b) A description of how student instructional needs will be determined and documented;	284 285
(c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;	286 287
(d) The school's attendance requirements, including how the school will document participation in learning opportunities;	288 289 290
(e) A statement describing how student progress will be monitored;	291 292
(f) A statement describing how private student data will be protected;	293 294
(g) A description of the professional development activities that will be offered to teachers.	295 296
(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;	297 298 299 300
(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.	301 302 303 304 305
(32) A provision requiring the governing authority to	306

adopt an enrollment and attendance policy that requires a 307
student's parent to notify the community school in which the 308
student is enrolled when there is a change in the location of 309
the parent's or student's primary residence. 310

(33) A provision requiring the governing authority to 311
adopt a student residence and address verification policy for 312
students enrolling in or attending the school. 313

(B) The community school shall also submit to the sponsor 314
a comprehensive plan for the school. The plan shall specify the 315
following: 316

(1) The process by which the governing authority of the 317
school will be selected in the future; 318

(2) The management and administration of the school; 319

(3) If the community school is a currently existing public 320
school or educational service center building, alternative 321
arrangements for current public school students who choose not 322
to attend the converted school and for teachers who choose not 323
to teach in the school or building after conversion; 324

(4) The instructional program and educational philosophy 325
of the school; 326

(5) Internal financial controls. 327

When submitting the plan under this division, the school 328
shall also submit copies of all policies and procedures 329
regarding internal financial controls adopted by the governing 330
authority of the school. 331

(C) A contract entered into under section 3314.02 of the 332
Revised Code between a sponsor and the governing authority of a 333
community school may provide for the community school governing 334

authority to make payments to the sponsor, which is hereby 335
authorized to receive such payments as set forth in the contract 336
between the governing authority and the sponsor. The total 337
amount of such payments for monitoring, oversight, and technical 338
assistance of the school shall not exceed three per cent of the 339
total amount of payments for operating expenses that the school 340
receives from the state. 341

(D) The contract shall specify the duties of the sponsor 342
which shall be in accordance with the written agreement entered 343
into with the department of education under division (B) of 344
section 3314.015 of the Revised Code and shall include the 345
following: 346

(1) Monitor the community school's compliance with all 347
laws applicable to the school and with the terms of the 348
contract; 349

(2) Monitor and evaluate the academic and fiscal 350
performance and the organization and operation of the community 351
school on at least an annual basis; 352

(3) Report on an annual basis the results of the 353
evaluation conducted under division (D) (2) of this section to 354
the department of education and to the parents of students 355
enrolled in the community school; 356

(4) Provide technical assistance to the community school 357
in complying with laws applicable to the school and terms of the 358
contract; 359

(5) Take steps to intervene in the school's operation to 360
correct problems in the school's overall performance, declare 361
the school to be on probationary status pursuant to section 362
3314.073 of the Revised Code, suspend the operation of the 363

school pursuant to section 3314.072 of the Revised Code, or 364
terminate the contract of the school pursuant to section 3314.07 365
of the Revised Code as determined necessary by the sponsor; 366

(6) Have in place a plan of action to be undertaken in the 367
event the community school experiences financial difficulties or 368
closes prior to the end of a school year. 369

(E) Upon the expiration of a contract entered into under 370
this section, the sponsor of a community school may, with the 371
approval of the governing authority of the school, renew that 372
contract for a period of time determined by the sponsor, but not 373
ending earlier than the end of any school year, if the sponsor 374
finds that the school's compliance with applicable laws and 375
terms of the contract and the school's progress in meeting the 376
academic goals prescribed in the contract have been 377
satisfactory. Any contract that is renewed under this division 378
remains subject to the provisions of sections 3314.07, 3314.072, 379
and 3314.073 of the Revised Code. 380

(F) If a community school fails to open for operation 381
within one year after the contract entered into under this 382
section is adopted pursuant to division (D) of section 3314.02 383
of the Revised Code or permanently closes prior to the 384
expiration of the contract, the contract shall be void and the 385
school shall not enter into a contract with any other sponsor. A 386
school shall not be considered permanently closed because the 387
operations of the school have been suspended pursuant to section 388
3314.072 of the Revised Code. 389

Sec. 3326.11. Each science, technology, engineering, and 390
mathematics school established under this chapter and its 391
governing body shall comply with sections 9.90, 9.91, 109.65, 392
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 393

3301.0714, 3301.0715, 3301.0729, 3301.948, 3313.14, 3313.15, 394
3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 395
3313.481, 3313.482, 3313.50, 3313.539, 3313.5310, 3313.608, 396
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 397
3313.6021, 3313.6024, 3313.6025, 3313.61, 3313.611, 3313.614, 398
3313.615, 3313.617, 3313.618, 3313.6114, 3313.643, 3313.648, 399
3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 400
3313.668, 3313.669, 3313.6610, 3313.67, 3313.671, 3313.672, 401
3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 402
3313.7112, 3313.7117, 3313.721, 3313.80, 3313.801, 3313.814, 403
3313.816, 3313.817, 3313.818, 3313.86, 3313.89, 3313.96, 404
3319.073, 3319.077, 3319.078, 3319.21, 3319.32, 3319.321, 405
3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3319.46, 3320.01, 406
3320.02, 3320.03, 3321.01, 3321.041, 3321.05, 3321.13, 3321.14, 407
3321.141, 3321.17, 3321.18, 3321.19, 3321.191, 3323.251, 408
3327.10, 4111.17, 4113.52, 5502.262, and 5705.391 and Chapters 409
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 410
4123., 4141., and 4167. of the Revised Code as if it were a 411
school district. 412

Sec. 3328.24. A college-preparatory boarding school 413
established under this chapter and its board of trustees shall 414
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 415
3301.0714, 3301.0729, 3301.948, 3313.6013, 3313.6021, 3313.6024, 416
3313.6025, 3313.617, 3313.618, 3313.6114, 3313.6411, 3313.668, 417
3313.669, 3313.6610, 3313.7112, 3313.7117, 3313.721, 3313.89, 418
3319.073, 3319.077, 3319.078, 3319.39, 3319.391, 3319.46, 419
3320.01, 3320.02, 3320.03, 3323.251, and 5502.262, and Chapter 420
3365. of the Revised Code as if the school were a school 421
district and the school's board of trustees were a district 422
board of education. 423

Sec. 3345.0215. (A) Notwithstanding any provision of the 424

Revised Code or any order, rule, or other law to the contrary, 425
after the 2020-2021 academic year, no state institution of 426
higher education, as defined in section 3345.011 of the Revised 427
Code, shall require an individual to wear a facial covering to 428
attend or participate in in-person instruction, institution- 429
sponsored athletics, institution-sponsored extracurricular 430
activities, in dormitories, or at any other time in any location 431
on an institution's or university's campus. An individual may 432
choose to wear a facial covering but shall not be required to do 433
so. 434

(B) The requirements prescribed in division (A) of this 435
section do not apply to an individual in a medical setting at a 436
state institution of higher education. 437

Nothing in this section restricts a board of health of a 438
city or general health district or the authority having the 439
duties of a board of health under section 3709.05 of the Revised 440
Code, from taking action to prevent the spread of a communicable 441
or contagious disease. 442

Sec. 4101.17. If any business elects to require the 443
wearing of facial coverings by employees, visitors, and patrons 444
while on the business's premises, the business shall post notice 445
of the requirement in a conspicuous place. The notice shall 446
state that an exemption to the requirement exists for 447
individuals that have a documented medical condition that 448
contraindicates the wearing of a facial covering. 449

Section 2. That existing sections 3314.03, 3326.11, and 450
3328.24 of the Revised Code are hereby repealed. 451

Section 3. The General Assembly, applying the principle 452
stated in division (B) of section 1.52 of the Revised Code that 453

amendments are to be harmonized if reasonably capable of 454
simultaneous operation, finds that the following sections, 455
presented in this act as composites of the sections as amended 456
by the acts indicated, are the resulting versions of the 457
sections in effect prior to the effective date of the sections 458
as presented in this act: 459

Section 3314.03 of the Revised Code as amended by H.B. 460
123, H.B. 164, H.B. 166, H.B. 409, H.B. 436, S.B. 68, and S.B. 461
89, all of the 133rd General Assembly. 462

Section 3326.11 of the Revised Code as amended by H.B. 463
123, H.B. 164, H.B. 166, H.B. 436, and S.B. 68, all of the 133rd 464
General Assembly. 465

Section 3328.24 of the Revised Code as amended by H.B. 466
123, H.B. 164, H.B. 166, H.B. 436, and S.B. 68, all of the 133rd 467
General Assembly. 468