

As Introduced

135th General Assembly

Regular Session

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H. B. No. 183

Representatives Lear, Bird

Cosponsors: Representatives Fowler Arthur, Barhorst, Robb Blasdel, Claggett, Click, Dean, Ferguson, Gross, Hall, King, Klopfenstein, Lorenz, Manchester, Schmidt, Seitz, Stoltzfus, Wiggam, Willis, Williams

A BILL

To amend sections 3314.03 and 3326.11 and to enact 1
sections 3319.90 and 3345.90 of the Revised Code 2
regarding single-sex bathroom access in primary 3
and secondary schools and institutions of higher 4
education. 5

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

Section 1. That sections 3314.03 and 3326.11 be amended 6
and sections 3319.90 and 3345.90 of the Revised Code be enacted 7
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 following:	17 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 seventy-two consecutive hours of the learning opportunities offered to the	40 41 42 43 44

student.	45
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	46 47
(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.	48 49 50 51 52 53
(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:	54 55
(a) A detailed description of each facility used for instructional purposes;	56 57
(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;	58 59
(c) The annual mortgage principal and interest payments that are paid by the school;	60 61
(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any.	62 63 64
(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 or forty hours per week pursuant to section 3319.301 of the Revised Code.	65 66 67 68 69 70
(11) That the school will comply with the following requirements:	71 72

(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.

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

(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.

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3302.037, 3313.472, 3313.50, 3313.539, 3313.5310, 3313.608, 3313.609, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.6024, 3313.6025, 3313.6026, 3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.668, 3313.669, 3313.6610, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 3313.721, 3313.80, 3313.814, 3313.816, 3313.817, 3313.818, 3313.86, 3313.89, 3313.96, 3319.073, 3319.077, 3319.078, 3319.238, 3319.318, 3319.321, 3319.39, 3319.391, 3319.393, 3319.41, 3319.46, 3319.90, 3320.01, 3320.02, 3320.03, 3321.01, 3321.041, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 3323.251, 3327.10, 4111.17, 4113.52, 5502.262, 5502.703, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code.

(e) The school shall comply with Chapter 102. and section 103
2921.42 of the Revised Code. 104

(f) The school will comply with sections 3313.61, 105
3313.611, 3313.614, 3313.617, 3313.618, and 3313.6114 of the 106
Revised Code, except that for students who enter ninth grade for 107
the first time before July 1, 2010, the requirement in sections 108
3313.61 and 3313.611 of the Revised Code that a person must 109
successfully complete the curriculum in any high school prior to 110
receiving a high school diploma may be met by completing the 111
curriculum adopted by the governing authority of the community 112
school rather than the curriculum specified in Title XXXVIII of 113
the Revised Code or any rules of the state board of education. 114
Beginning with students who enter ninth grade for the first time 115
on or after July 1, 2010, the requirement in sections 3313.61 116
and 3313.611 of the Revised Code that a person must successfully 117
complete the curriculum of a high school prior to receiving a 118
high school diploma shall be met by completing the requirements 119
prescribed in section 3313.6027 and division (C) of section 120
3313.603 of the Revised Code, unless the person qualifies under 121
division (D) or (F) of that section. Each school shall comply 122
with the plan for awarding high school credit based on 123
demonstration of subject area competency, and beginning with the 124
2017-2018 school year, with the updated plan that permits 125
students enrolled in seventh and eighth grade to meet curriculum 126
requirements based on subject area competency adopted by the 127
state board of education under divisions (J) (1) and (2) of 128
section 3313.603 of the Revised Code. Beginning with the 2018- 129
2019 school year, the school shall comply with the framework for 130
granting units of high school credit to students who demonstrate 131
subject area competency through work-based learning experiences, 132
internships, or cooperative education developed by the 133

department under division (J) (3) of section 3313.603 of the Revised Code. 134
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(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A) (3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school. 136
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(h) The school, unless it is an internet- or computer-based community school, will comply with section 3313.801 of the Revised Code as if it were a school district. 142
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(i) If the school is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the school will pay teachers based upon performance in accordance with section 3317.141 and will comply with section 3319.111 of the Revised Code as if it were a school district. 145
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(j) If the school operates a preschool program that is licensed by the department of education under sections 3301.52 to 3301.59 of the Revised Code, the school shall comply with 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. 152
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(k) The school will comply with sections 3313.6021 and 3313.6023 of the Revised Code as if it were a school district unless it is either of the following: 158
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(i) An internet- or computer-based community school; 161

(ii) A community school in which a majority of the 162

enrolled students are children with disabilities as described in	163
division (A) (4) (b) of section 3314.35 of the Revised Code.	164
(1) The school will comply with section 3321.191 of the	165
Revised Code, unless it is an internet- or computer-based	166
community school that is subject to section 3314.261 of the	167
Revised Code.	168
(12) Arrangements for providing health and other benefits	169
to employees;	170
(13) The length of the contract, which shall begin at the	171
beginning of an academic year. No contract shall exceed five	172
years unless such contract has been renewed pursuant to division	173
(E) of this section.	174
(14) The governing authority of the school, which shall be	175
responsible for carrying out the provisions of the contract;	176
(15) A financial plan detailing an estimated school budget	177
for each year of the period of the contract and specifying the	178
total estimated per pupil expenditure amount for each such year.	179
(16) Requirements and procedures regarding the disposition	180
of employees of the school in the event the contract is	181
terminated or not renewed pursuant to section 3314.07 of the	182
Revised Code;	183
(17) Whether the school is to be created by converting all	184
or part of an existing public school or educational service	185
center building or is to be a new start-up school, and if it is	186
a converted public school or service center building,	187
specification of any duties or responsibilities of an employer	188
that the board of education or service center governing board	189
that operated the school or building before conversion is	190
delegating to the governing authority of the community school	191

with respect to all or any specified group of employees provided 192
the delegation is not prohibited by a collective bargaining 193
agreement applicable to such employees; 194

(18) Provisions establishing procedures for resolving 195
disputes or differences of opinion between the sponsor and the 196
governing authority of the community school; 197

(19) A provision requiring the governing authority to 198
adopt a policy regarding the admission of students who reside 199
outside the district in which the school is located. That policy 200
shall comply with the admissions procedures specified in 201
sections 3314.06 and 3314.061 of the Revised Code and, at the 202
sole discretion of the authority, shall do one of the following: 203

(a) Prohibit the enrollment of students who reside outside 204
the district in which the school is located; 205

(b) Permit the enrollment of students who reside in 206
districts adjacent to the district in which the school is 207
located; 208

(c) Permit the enrollment of students who reside in any 209
other district in the state. 210

(20) A provision recognizing the authority of the 211
department of education to take over the sponsorship of the 212
school in accordance with the provisions of division (C) of 213
section 3314.015 of the Revised Code; 214

(21) A provision recognizing the sponsor's authority to 215
assume the operation of a school under the conditions specified 216
in division (B) of section 3314.073 of the Revised Code; 217

(22) A provision recognizing both of the following: 218

(a) The authority of public health and safety officials to 219

inspect the facilities of the school and to order the facilities 220
closed if those officials find that the facilities are not in 221
compliance with health and safety laws and regulations; 222

(b) The authority of the department of education as the 223
community school oversight body to suspend the operation of the 224
school under section 3314.072 of the Revised Code if the 225
department has evidence of conditions or violations of law at 226
the school that pose an imminent danger to the health and safety 227
of the school's students and employees and the sponsor refuses 228
to take such action. 229

(23) A description of the learning opportunities that will 230
be offered to students including both classroom-based and non- 231
classroom-based learning opportunities that is in compliance 232
with criteria for student participation established by the 233
department under division (H) (2) of section 3314.08 of the 234
Revised Code; 235

(24) The school will comply with sections 3302.04 and 236
3302.041 of the Revised Code, except that any action required to 237
be taken by a school district pursuant to those sections shall 238
be taken by the sponsor of the school. However, the sponsor 239
shall not be required to take any action described in division 240
(F) of section 3302.04 of the Revised Code. 241

(25) Beginning in the 2006-2007 school year, the school 242
will open for operation not later than the thirtieth day of 243
September each school year, unless the mission of the school as 244
specified under division (A) (2) of this section is solely to 245
serve dropouts. In its initial year of operation, if the school 246
fails to open by the thirtieth day of September, or within one 247
year after the adoption of the contract pursuant to division (D) 248
of section 3314.02 of the Revised Code if the mission of the 249

school is solely to serve dropouts, the contract shall be void.	250
(26) Whether the school's governing authority is planning	251
to seek designation for the school as a STEM school equivalent	252
under section 3326.032 of the Revised Code;	253
(27) That the school's attendance and participation	254
policies will be available for public inspection;	255
(28) That the school's attendance and participation	256
records shall be made available to the department of education,	257
auditor of state, and school's sponsor to the extent permitted	258
under and in accordance with the "Family Educational Rights and	259
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended,	260
and any regulations promulgated under that act, and section	261
3319.321 of the Revised Code;	262
(29) If a school operates using the blended learning	263
model, as defined in section 3301.079 of the Revised Code, all	264
of the following information:	265
(a) An indication of what blended learning model or models	266
will be used;	267
(b) A description of how student instructional needs will	268
be determined and documented;	269
(c) The method to be used for determining competency,	270
granting credit, and promoting students to a higher grade level;	271
(d) The school's attendance requirements, including how	272
the school will document participation in learning	273
opportunities;	274
(e) A statement describing how student progress will be	275
monitored;	276

(f) A statement describing how private student data will be protected;	277 278
(g) A description of the professional development activities that will be offered to teachers.	279 280
(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;	281 282 283 284
(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.	285 286 287 288 289
(32) A provision requiring the governing authority to adopt an enrollment and attendance policy that requires a student's parent to notify the community school in which the student is enrolled when there is a change in the location of the parent's or student's primary residence.	290 291 292 293 294
(33) A provision requiring the governing authority to adopt a student residence and address verification policy for students enrolling in or attending the school.	295 296 297
(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:	298 299 300
(1) The process by which the governing authority of the school will be selected in the future;	301 302
(2) The management and administration of the school;	303
(3) If the community school is a currently existing public	304

school or educational service center building, alternative 305
arrangements for current public school students who choose not 306
to attend the converted school and for teachers who choose not 307
to teach in the school or building after conversion; 308

(4) The instructional program and educational philosophy 309
of the school; 310

(5) Internal financial controls. 311

When submitting the plan under this division, the school 312
shall also submit copies of all policies and procedures 313
regarding internal financial controls adopted by the governing 314
authority of the school. 315

(C) A contract entered into under section 3314.02 of the 316
Revised Code between a sponsor and the governing authority of a 317
community school may provide for the community school governing 318
authority to make payments to the sponsor, which is hereby 319
authorized to receive such payments as set forth in the contract 320
between the governing authority and the sponsor. The total 321
amount of such payments for monitoring, oversight, and technical 322
assistance of the school shall not exceed three per cent of the 323
total amount of payments for operating expenses that the school 324
receives from the state. 325

(D) The contract shall specify the duties of the sponsor 326
which shall be in accordance with the written agreement entered 327
into with the department of education under division (B) of 328
section 3314.015 of the Revised Code and shall include the 329
following: 330

(1) Monitor the community school's compliance with all 331
laws applicable to the school and with the terms of the 332
contract; 333

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;	334 335 336
(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;	337 338 339 340
(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;	341 342 343
(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;	344 345 346 347 348 349 350
(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.	351 352 353
(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division	354 355 356 357 358 359 360 361 362

remains subject to the provisions of sections 3314.07, 3314.072,
and 3314.073 of the Revised Code.

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

Sec. 3319.90. (A) As used in this section:

(1) "Biological sex" means the condition of being either
female or male, and the sex listed on a person's official birth
record, as defined in section 3705.01 of the Revised Code, may
be relied upon if the birth record was issued at or near the
time of the person's birth.

(2) "School" includes the following:

(a) A school district or school district building;

(b) A community school established under Chapter 3314. of
the Revised Code;

(c) A science, technology, engineering, and mathematics
school established under Chapter 3326. of the Revised Code;

(d) A chartered nonpublic school;

(e) An educational service center.

(B) (1) A school shall designate each student restroom,
locker room, changing room, or shower room that is accessible by

multiple students at the same time, whether located in a school 390
building or located in a facility used by the school for a 391
school-sponsored activity, for the exclusive use by students of 392
the male biological sex only or by students of the female 393
biological sex only. 394

(2) No school shall permit a member of the female 395
biological sex to use a student restroom, locker room, changing 396
room, or shower room that has been designated by the school for 397
the exclusive use of the male biological sex. No school shall 398
permit a member of the male biological sex to use a student 399
restroom, locker room, changing room, or shower room that has 400
been designated by the school for the exclusive use of the 401
female biological sex. 402

(C) No school shall permit a member of the female 403
biological sex to share overnight accommodations with a member 404
of the male biological sex. No school shall permit a member of 405
the male biological sex to share overnight accommodations with a 406
member of the female biological sex. 407

(D) Nothing in this section shall be construed to prohibit 408
a school from establishing a policy providing accommodation such 409
as single-occupancy facilities or controlled use of faculty 410
facilities at the request of a student due to special 411
circumstances. 412

(E) The prohibitions described in divisions (B) and (C) of 413
this section do not apply to a child under the age of ten who is 414
being assisted by a parent, guardian, or family member or to a 415
person providing assistance to a person with a disability. 416

Sec. 3326.11. Each science, technology, engineering, and 417
mathematics school established under this chapter and its 418

governing body shall comply with sections 9.90, 9.91, 109.65, 419
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 420
3301.0714, 3301.0715, 3301.0729, 3301.948, 3302.037, 3313.14, 421
3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 422
3313.481, 3313.482, 3313.50, 3313.539, 3313.5310, 3313.608, 423
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 424
3313.6021, 3313.6024, 3313.6025, 3313.6026, 3313.61, 3313.611, 425
3313.614, 3313.615, 3313.617, 3313.618, 3313.6114, 3313.643, 426
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 427
3313.667, 3313.668, 3313.669, 3313.6610, 3313.67, 3313.671, 428
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 429
3313.719, 3313.7112, 3313.721, 3313.80, 3313.801, 3313.814, 430
3313.816, 3313.817, 3313.818, 3313.86, 3313.89, 3313.96, 431
3319.073, 3319.077, 3319.078, 3319.21, 3319.238, 3319.318, 432
3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.393, 433
3319.41, 3319.45, 3319.46, 3319.90, 3320.01, 3320.02, 3320.03, 434
3321.01, 3321.041, 3321.05, 3321.13, 3321.14, 3321.141, 3321.17, 435
3321.18, 3321.19, 3321.191, 3323.251, 3327.10, 4111.17, 4113.52, 436
5502.262, 5502.703, and 5705.391 and Chapters 102., 117., 1347., 437
2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 438
4167. of the Revised Code as if it were a school district. 439

Sec. 3345.90. (A) As used in this section: 440

(1) "Biological sex" means the condition of being either 441
female or male, and the sex listed on a person's official birth 442
record, as defined in section 3705.01 of the Revised Code, may 443
be relied upon if the birth record was issued at or near the 444
time of the person's birth. 445

(2) "Institution of higher education" has the same meaning 446
as in section 3345.19 of the Revised Code. 447

(B) (1) Each institution of higher education shall 448

designate each student restroom, locker room, changing room, or 449
shower room accessible by multiple students at the same time for 450
the exclusive use by students of the male biological sex only or 451
by students of the female biological sex only. 452

(2) No institution of higher education shall permit a 453
member of the female biological sex to use a student restroom, 454
locker room, changing room, or shower room that has been 455
designated by the school for the exclusive use of the male 456
biological sex. No institution of higher education shall permit 457
a member of the male biological sex to use a student restroom, 458
locker room, changing room, or shower room that has been 459
designated by the school for the exclusive use of the female 460
biological sex. 461

(C) Nothing in this section shall be construed to prohibit 462
an institution of higher education from establishing a policy 463
providing accommodation such as single-occupancy facilities or 464
controlled use of faculty facilities at the request of a student 465
due to special circumstances. 466

(D) The prohibition described in division (B) of this 467
section does not apply to a child under the age of ten who is 468
being assisted by a parent, guardian, or family member or to a 469
person providing assistance to a person with a disability. 470

Section 2. That existing sections 3314.03 and 3326.11 of 471
the Revised Code are hereby repealed. 472