

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 34

Senator Manning

Cosponsors: Senators Bacon, Hoagland, Williams, Yuko

A BILL

To amend sections 3314.03, 3317.01, 3326.11, and 1
3328.24 and to enact section 3313.621 of the 2
Revised Code to generally require public and 3
chartered nonpublic schools to open for 4
instruction after Labor Day. 5

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

Section 1. That sections 3314.03, 3317.01, 3326.11, and 6
3328.24 be amended and section 3313.621 of the Revised Code be 7
enacted to read as follows: 8

Sec. 3313.621. This section does not apply to any school 9
that operates on a year-round basis requiring students to be in 10
attendance throughout the entire school year, including summer 11
but excluding authorized breaks. 12

(A) Beginning in the 2018-2019 school year, except as 13
provided in division (B) or (D) of this section, the board of 14
education of each city, exempted village, local, or joint 15
vocational school district and the governing body of each 16
chartered nonpublic school shall open its schools for 17
instruction with students in attendance after Labor day in any 18

school year. Workshops, orientation, or other activities in 19
preparation for the opening of school may be held prior to Labor 20
day for teachers, nonteaching employees, or administrators. 21

(B) If a board of education or governing body determines 22
that it is in the best interest of the school, a board or 23
governing body may adopt a resolution that permits a school 24
under its control to open prior to Labor day in any school year. 25

Not later than thirty days prior to adopting such a 26
resolution, the board of education of a city, exempted village, 27
and local school district shall hold a public hearing on the 28
school calendar, addressing opening a school under its control 29
prior to Labor day. 30

(C) Nothing in this section shall be construed to prohibit 31
a school district or chartered nonpublic school from operating a 32
summer school program. 33

(D) Any board of education of a school district that, 34
prior to the effective date of this section, entered into a 35
collective bargaining agreement under Chapter 4117. of the 36
Revised Code that establishes a date prior to Labor day on which 37
the schools of the district will open for instruction with 38
students in attendance shall not be required to comply with this 39
section until the expiration of that agreement. Each collective 40
bargaining agreement entered into or renewed on or after the 41
effective date of this section shall comply with this section. 42

Sec. 3314.03. A copy of every contract entered into under 43
this section shall be filed with the superintendent of public 44
instruction. The department of education shall make available on 45
its web site a copy of every approved, executed contract filed 46
with the superintendent under this section. 47

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

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

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

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

(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;

(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	76
legitimate excuse fails to participate in one hundred five	77
consecutive hours of the learning opportunities offered to the	78
student.	79
(7) The ways by which the school will achieve racial and	80
ethnic balance reflective of the community it serves;	81
(8) Requirements for financial audits by the auditor of	82
state. The contract shall require financial records of the	83
school to be maintained in the same manner as are financial	84
records of school districts, pursuant to rules of the auditor of	85
state. Audits shall be conducted in accordance with section	86
117.10 of the Revised Code.	87
(9) An addendum to the contract outlining the facilities	88
to be used that contains at least the following information:	89
(a) A detailed description of each facility used for	90
instructional purposes;	91
(b) The annual costs associated with leasing each facility	92
that are paid by or on behalf of the school;	93
(c) The annual mortgage principal and interest payments	94
that are paid by the school;	95
(d) The name of the lender or landlord, identified as	96
such, and the lender's or landlord's relationship to the	97
operator, if any.	98
(10) Qualifications of teachers, including a requirement	99
that the school's classroom teachers be licensed in accordance	100
with sections 3319.22 to 3319.31 of the Revised Code, except	101
that a community school may engage noncertificated persons to	102
teach up to twelve hours per week pursuant to section 3319.301	103

of the Revised Code. 104

(11) That the school will comply with the following 105
requirements: 106

(a) The school will provide learning opportunities to a 107
minimum of twenty-five students for a minimum of nine hundred 108
twenty hours per school year. 109

(b) The governing authority will purchase liability 110
insurance, or otherwise provide for the potential liability of 111
the school. 112

(c) The school will be nonsectarian in its programs, 113
admission policies, employment practices, and all other 114
operations, and will not be operated by a sectarian school or 115
religious institution. 116

(d) The school will comply with sections 9.90, 9.91, 117
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 118
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3313.472, 119
3313.50, 3313.536, 3313.539, 3313.5310, 3313.608, 3313.609, 120
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.621, 121
3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 122
3313.666, 3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 123
3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 124
3313.7112, 3313.721, 3313.80, 3313.814, 3313.816, 3313.817, 125
3313.86, 3313.89, 3313.96, 3319.073, 3319.321, 3319.39, 126
3319.391, 3319.41, 3319.46, 3321.01, 3321.041, 3321.13, 3321.14, 127
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, 128
and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 129
4112., 4123., 4141., and 4167. of the Revised Code as if it were 130
a school district and will comply with section 3301.0714 of the 131
Revised Code in the manner specified in section 3314.17 of the 132

Revised Code.	133
(e) The school shall comply with Chapter 102. and section	134
2921.42 of the Revised Code.	135
(f) The school will comply with sections 3313.61,	136
3313.611, and 3313.614 of the Revised Code, except that for	137
students who enter ninth grade for the first time before July 1,	138
2010, the requirement in sections 3313.61 and 3313.611 of the	139
Revised Code that a person must successfully complete the	140
curriculum in any high school prior to receiving a high school	141
diploma may be met by completing the curriculum adopted by the	142
governing authority of the community school rather than the	143
curriculum specified in Title XXXVIII of the Revised Code or any	144
rules of the state board of education. Beginning with students	145
who enter ninth grade for the first time on or after July 1,	146
2010, the requirement in sections 3313.61 and 3313.611 of the	147
Revised Code that a person must successfully complete the	148
curriculum of a high school prior to receiving a high school	149
diploma shall be met by completing the requirements prescribed	150
in division (C) of section 3313.603 of the Revised Code, unless	151
the person qualifies under division (D) or (F) of that section.	152
Each school shall comply with the plan for awarding high school	153
credit based on demonstration of subject area competency, and	154
beginning with the 2017-2018 school year, with the updated plan	155
that permits students enrolled in seventh and eighth grade to	156
meet curriculum requirements based on subject area competency	157
adopted by the state board of education under divisions (J) (1)	158
and (2) of section 3313.603 of the Revised Code.	159
(g) The school governing authority will submit within four	160
months after the end of each school year a report of its	161
activities and progress in meeting the goals and standards of	162

divisions (A) (3) and (4) of this section and its financial 163
status to the sponsor and the parents of all students enrolled 164
in the school. 165

(h) The school, unless it is an internet- or computer- 166
based community school, will comply with section 3313.801 of the 167
Revised Code as if it were a school district. 168

(i) If the school is the recipient of moneys from a grant 169
awarded under the federal race to the top program, Division (A), 170
Title XIV, Sections 14005 and 14006 of the "American Recovery 171
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 172
the school will pay teachers based upon performance in 173
accordance with section 3317.141 and will comply with section 174
3319.111 of the Revised Code as if it were a school district. 175

(j) If the school operates a preschool program that is 176
licensed by the department of education under sections 3301.52 177
to 3301.59 of the Revised Code, the school shall comply with 178
sections 3301.50 to 3301.59 of the Revised Code and the minimum 179
standards for preschool programs prescribed in rules adopted by 180
the state board under section 3301.53 of the Revised Code. 181

(k) The school will comply with sections 3313.6021 and 182
3313.6023 of the Revised Code as if it were a school district 183
unless it is either of the following: 184

(i) An internet- or computer-based community school; 185

(ii) A community school in which a majority of the 186
enrolled students are children with disabilities as described in 187
division (A) (4) (b) of section 3314.35 of the Revised Code. 188

(12) Arrangements for providing health and other benefits 189
to employees; 190

(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 220
shall comply with the admissions procedures specified in 221
sections 3314.06 and 3314.061 of the Revised Code and, at the 222
sole discretion of the authority, shall do one of the following: 223

(a) Prohibit the enrollment of students who reside outside 224
the district in which the school is located; 225

(b) Permit the enrollment of students who reside in 226
districts adjacent to the district in which the school is 227
located; 228

(c) Permit the enrollment of students who reside in any 229
other district in the state. 230

(20) A provision recognizing the authority of the 231
department of education to take over the sponsorship of the 232
school in accordance with the provisions of division (C) of 233
section 3314.015 of the Revised Code; 234

(21) A provision recognizing the sponsor's authority to 235
assume the operation of a school under the conditions specified 236
in division (B) of section 3314.073 of the Revised Code; 237

(22) A provision recognizing both of the following: 238

(a) The authority of public health and safety officials to 239
inspect the facilities of the school and to order the facilities 240
closed if those officials find that the facilities are not in 241
compliance with health and safety laws and regulations; 242

(b) The authority of the department of education as the 243
community school oversight body to suspend the operation of the 244
school under section 3314.072 of the Revised Code if the 245
department has evidence of conditions or violations of law at 246
the school that pose an imminent danger to the health and safety 247

of the school's students and employees and the sponsor refuses 248
to take such action. 249

(23) A description of the learning opportunities that will 250
be offered to students including both classroom-based and non- 251
classroom-based learning opportunities that is in compliance 252
with criteria for student participation established by the 253
department under division (H) (2) of section 3314.08 of the 254
Revised Code; 255

(24) The school will comply with sections 3302.04 and 256
3302.041 of the Revised Code, except that any action required to 257
be taken by a school district pursuant to those sections shall 258
be taken by the sponsor of the school. However, the sponsor 259
shall not be required to take any action described in division 260
(F) of section 3302.04 of the Revised Code. 261

(25) Beginning in the 2006-2007 school year, the school 262
will open for operation not later than the thirtieth day of 263
September each school year, unless the mission of the school as 264
specified under division (A) (2) of this section is solely to 265
serve dropouts. In its initial year of operation, if the school 266
fails to open by the thirtieth day of September, or within one 267
year after the adoption of the contract pursuant to division (D) 268
of section 3314.02 of the Revised Code if the mission of the 269
school is solely to serve dropouts, the contract shall be void. 270

(26) Whether the school's governing authority is planning 271
to seek designation for the school as a STEM school equivalent 272
under section 3326.032 of the Revised Code; 273

(27) That the school's attendance and participation 274
policies will be available for public inspection; 275

(28) That the school's attendance and participation 276

records shall be made available to the department of education, 277
auditor of state, and school's sponsor to the extent permitted 278
under and in accordance with the "Family Educational Rights and 279
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, 280
and any regulations promulgated under that act, and section 281
3319.321 of the Revised Code; 282

(29) If a school operates using the blended learning 283
model, as defined in section 3301.079 of the Revised Code, all 284
of the following information: 285

(a) An indication of what blended learning model or models 286
will be used; 287

(b) A description of how student instructional needs will 288
be determined and documented; 289

(c) The method to be used for determining competency, 290
granting credit, and promoting students to a higher grade level; 291

(d) The school's attendance requirements, including how 292
the school will document participation in learning 293
opportunities; 294

(e) A statement describing how student progress will be 295
monitored; 296

(f) A statement describing how private student data will 297
be protected; 298

(g) A description of the professional development 299
activities that will be offered to teachers. 300

(30) A provision requiring that all moneys the school's 301
operator loans to the school, including facilities loans or cash 302
flow assistance, must be accounted for, documented, and bear 303
interest at a fair market rate; 304

(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.

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

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

(2) The management and administration of the school;

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

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

(5) Internal financial controls.

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

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract

between the governing authority and the sponsor. The total 333
amount of such payments for monitoring, oversight, and technical 334
assistance of the school shall not exceed three per cent of the 335
total amount of payments for operating expenses that the school 336
receives from the state. 337

(D) The contract shall specify the duties of the sponsor 338
which shall be in accordance with the written agreement entered 339
into with the department of education under division (B) of 340
section 3314.015 of the Revised Code and shall include the 341
following: 342

(1) Monitor the community school's compliance with all 343
laws applicable to the school and with the terms of the 344
contract; 345

(2) Monitor and evaluate the academic and fiscal 346
performance and the organization and operation of the community 347
school on at least an annual basis; 348

(3) Report on an annual basis the results of the 349
evaluation conducted under division (D) (2) of this section to 350
the department of education and to the parents of students 351
enrolled in the community school; 352

(4) Provide technical assistance to the community school 353
in complying with laws applicable to the school and terms of the 354
contract; 355

(5) Take steps to intervene in the school's operation to 356
correct problems in the school's overall performance, declare 357
the school to be on probationary status pursuant to section 358
3314.073 of the Revised Code, suspend the operation of the 359
school pursuant to section 3314.072 of the Revised Code, or 360
terminate the contract of the school pursuant to section 3314.07 361

of the Revised Code as determined necessary by the sponsor; 362

(6) Have in place a plan of action to be undertaken in the 363
event the community school experiences financial difficulties or 364
closes prior to the end of a school year. 365

(E) Upon the expiration of a contract entered into under 366
this section, the sponsor of a community school may, with the 367
approval of the governing authority of the school, renew that 368
contract for a period of time determined by the sponsor, but not 369
ending earlier than the end of any school year, if the sponsor 370
finds that the school's compliance with applicable laws and 371
terms of the contract and the school's progress in meeting the 372
academic goals prescribed in the contract have been 373
satisfactory. Any contract that is renewed under this division 374
remains subject to the provisions of sections 3314.07, 3314.072, 375
and 3314.073 of the Revised Code. 376

(F) If a community school fails to open for operation 377
within one year after the contract entered into under this 378
section is adopted pursuant to division (D) of section 3314.02 379
of the Revised Code or permanently closes prior to the 380
expiration of the contract, the contract shall be void and the 381
school shall not enter into a contract with any other sponsor. A 382
school shall not be considered permanently closed because the 383
operations of the school have been suspended pursuant to section 384
3314.072 of the Revised Code. 385

Sec. 3317.01. As used in this section, "school district," 386
unless otherwise specified, means any city, local, exempted 387
village, joint vocational, or cooperative education school 388
district and any educational service center. 389

This chapter shall be administered by the state board of 390

education. The superintendent of public instruction shall 391
calculate the amounts payable to each school district and shall 392
certify the amounts payable to each eligible district to the 393
treasurer of the district as provided by this chapter. As soon 394
as possible after such amounts are calculated, the 395
superintendent shall certify to the treasurer of each school 396
district the district's adjusted charge-off increase, as defined 397
in section 5705.211 of the Revised Code. Certification of moneys 398
pursuant to this section shall include the amounts payable to 399
each school building, at a frequency determined by the 400
superintendent, for each subgroup of students, as defined in 401
section 3317.40 of the Revised Code, receiving services, 402
provided for by state funding, from the district or school. No 403
moneys shall be distributed pursuant to this chapter without the 404
approval of the controlling board. 405

The state board of education shall, in accordance with 406
appropriations made by the general assembly, meet the financial 407
obligations of this chapter. 408

Moneys distributed to school districts pursuant to this 409
chapter shall be calculated based on the annual enrollment 410
calculated from the three reports required under sections 411
3317.03 and 3317.036 of the Revised Code and paid on a fiscal 412
year basis, beginning with the first day of July and extending 413
through the thirtieth day of June. In any given fiscal year, 414
prior to school districts submitting the first report required 415
under section 3317.03 of the Revised Code, enrollment for the 416
districts shall be calculated based on the third report 417
submitted by the districts for the previous fiscal year. The 418
moneys appropriated for each fiscal year shall be distributed 419
periodically to each school district unless otherwise provided 420
for. The state board, in June of each year, shall submit to the 421

controlling board the state board's year-end distributions 422
pursuant to this chapter. 423

Except as otherwise provided, payments under this chapter 424
shall be made only to those school districts in which: 425

(A) The school district, except for any educational 426
service center and any joint vocational or cooperative education 427
school district, levies for current operating expenses at least 428
twenty mills. Levies for joint vocational or cooperative 429
education school districts or county school financing districts, 430
limited to or to the extent apportioned to current expenses, 431
shall be included in this qualification requirement. School 432
district income tax levies under Chapter 5748. of the Revised 433
Code, limited to or to the extent apportioned to current 434
operating expenses, shall be included in this qualification 435
requirement to the extent determined by the tax commissioner 436
under division (D) of section 3317.021 of the Revised Code. 437

(B) The school year next preceding the fiscal year for 438
which such payments are authorized meets the requirement of 439
section 3313.48 of the Revised Code, with regard to the minimum 440
number of hours school must be open for instruction with pupils 441
in attendance, for individualized parent-teacher conference and 442
reporting periods, and for professional meetings of teachers, 443
and the requirement of section 3313.621 of the Revised Code, 444
with regard to the first day of the school year on which a 445
school may be open for instruction. 446

A school district shall not be considered to have failed 447
to comply with this division because schools were open for 448
instruction but either twelfth grade students were excused from 449
attendance for up to the equivalent of three school days or only 450
a portion of the kindergarten students were in attendance for up 451

to the equivalent of three school days in order to allow for the 452
gradual orientation to school of such students. 453

A board of education or governing board of an educational 454
service center which has not conformed with other law and the 455
rules pursuant thereto, shall not participate in the 456
distribution of funds authorized by this chapter, except for 457
good and sufficient reason established to the satisfaction of 458
the state board of education and the state controlling board. 459

All funds allocated to school districts under this 460
chapter, except those specifically allocated for other purposes, 461
shall be used to pay current operating expenses only. 462

Sec. 3326.11. Each science, technology, engineering, and 463
mathematics school established under this chapter and its 464
governing body shall comply with sections 9.90, 9.91, 109.65, 465
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 466
3301.0714, 3301.0715, 3301.0729, 3301.948, 3313.14, 3313.15, 467
3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 468
3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.5310, 469
3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 470
3313.6021, 3313.61, 3313.611, 3313.614, 3313.615, 3313.621, 471
3313.643, 3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 472
3313.666, 3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 473
3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 474
3313.7112, 3313.721, 3313.80, 3313.801, 3313.814, 3313.816, 475
3313.817, 3313.86, 3313.89, 3313.96, 3319.073, 3319.21, 3319.32, 476
3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3319.46, 477
3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 478
3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 479
102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 480
4123., 4141., and 4167. of the Revised Code as if it were a 481

school district.	482
Sec. 3328.24. A college-preparatory boarding school	483
established under this chapter and its board of trustees shall	484
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712,	485
3301.0714, 3301.0729, 3301.948, 3313.536, 3313.6013, 3313.6021,	486
<u>3313.621</u> , 3313.6411, 3313.7112, 3313.721, 3313.89, 3319.39,	487
3319.391, and 3319.46 and Chapter 3365. of the Revised Code as	488
if the school were a school district and the school's board of	489
trustees were a district board of education.	490
Section 2. That existing sections 3314.03, 3317.01,	491
3326.11, and 3328.24 of the Revised Code are hereby repealed.	492
Section 3. The General Assembly, applying the principle	493
stated in division (B) of section 1.52 of the Revised Code that	494
amendments are to be harmonized if reasonably capable of	495
simultaneous operation, finds that the following sections,	496
presented in this act as composites of the sections as amended	497
by the acts indicated, are the resulting versions of the	498
sections in effect prior to the effective date of the sections	499
as presented in this act:	500
Section 3314.03 of the Revised Code as amended by Am. Sub.	501
H.B. 410, Sub. S.B. 3, and Am. Sub. S.B. 252, all of the 131st	502
General Assembly.	503
Section 3326.11 of the Revised Code as amended by Am. Sub.	504
H.B. 410, Sub. S.B. 3, and Am. Sub. S.B. 252, all of the 131st	505
General Assembly.	506
Section 3328.24 of the Revised Code as amended by amended	507
by both Am. Sub. H.B. 410 and Sub. S.B. 3 of the 131st General	508
Assembly.	509