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## DEPARTMENT OF EDUCATION

### I. School Financing

#### School funding in general

- Creates a new system of state financing for school districts and community schools and science, technology, engineering, and mathematics (STEM) schools.
- Specifies a formula amount of \$5,745, for fiscal year 2014, and \$5,800, for fiscal year 2015.
- Beginning July 1, 2014, requires the superintendent of each school district to report (rather than certify) the enrollment (rather than the average daily membership) of students receiving services from schools under the superintendent's supervision as of the last day of October, March, and June of each year (rather than during the first full week of October as under prior law).
- Requires the Department of Education to create reports of the enrollment reported by each district, requires the superintendent of each district to certify those reports, and requires the Department to calculate a district's average daily membership for the specific purposes or categories required for the act's school funding system.
- Requires counting kindergarten students on the basis of the full-time equivalency for which they are enrolled, rather than counting each as one full-time student regardless of whether the student attends an all-day or part-day program as under prior law.
- Prohibits a school district, community school, or STEM school from categorically excluding a student from its reported number (or, beginning in fiscal year 2015 for school districts, its certified enrollment) of economically disadvantaged students based on anything other than family income.
- Creates the Straight A Program for fiscal years 2014 and 2015 to provide grants to school districts; educational service centers; community schools; STEM schools; college-preparatory boarding schools; individual school buildings; education consortia; institutions of higher education; and private entities partnering with one or more educational entities for projects that aim to achieve significant advancement in student achievement, spending reduction in the five year fiscal forecast, or utilization of a greater share of resources in the classroom.

## **Special education funding**

- Specifies dollar amounts, rather than multiples as under prior law, for each category of special education services.
- Adds "preschool child who is developmentally delayed" to the disabilities included in category two of special education services.
- Specifies a formula for additional state aid for preschool special education children for city, local, and exempted village school districts and certain state institutions.

## **Funding for limited English proficient students**

- Specifies dollar amounts for each of three categories of limited English proficient students.

## **Gifted unit funding**

- Prescribes a formula for allocating gifted coordinator and gifted intervention specialist funding units to each city, local, and exempted village school district and make payments based on the units allocated.
- Would have required a district to use the funds it receives for gifted coordinator units only for gifted coordinator services and the funds it receives for gifted intervention specialist units only for gifted intervention specialist services (VETOED).
- Would have required a district to employ qualified personnel to provide gifted services on a full-time equivalency basis that corresponded to either the gifted coordinator or gifted intervention specialist units allocated for the district (VETOED).
- Permits a school district to assign its gifted unit funding to another school district, an educational service center, a community school, or a STEM school (PARTIALLY VETOED).

## **Career-technical education funding**

- Revises the career-technical education program categories and creates three additional categories.
- Specifies dollar amounts, rather than multiples as under prior law, for each category of career-technical education.



- Specifies a timeline for the approval of career-technical education programs and criteria that must be considered by the lead district of a career-technical planning district and the Department when deciding whether to approve or disapprove a program.
- Requires the Department to review all category three career-technical education programs during fiscal year 2015 using the new quality program standards that the Department must adopt under the act to decide whether to approve or disapprove funding for those programs in fiscal years 2016 through 2020.
- Specifies that a city, local, exempted village, or joint vocational school district, community school, or STEM school must spend at least 75% of its state career-technical education funding on costs directly associated with career-technical education programs and no more than 25% on personnel expenditures.
- Specifies that a community school or STEM school that receives state career-technical education funding must spend that funding only for the purposes that the Department designates as approved for career-technical education expenses, and specifies that the Department must require the school to report data annually in order to monitor the school's compliance with the requirements for spending state career-technical education funding (similar to the requirement applicable to school districts in law retained by the act).
- Authorizes community schools to provide career-technical education and to contract with any public agency, board, or bureau or with any private individual or firm for the purchase of any career-technical education or vocational rehabilitation service for any enrolled student.
- Permits a student enrolled in a community school to simultaneously enroll in the career-technical program operated by the career-technical planning district to which the student's resident district belongs.
- Maintains unit funding for career-technical education at state institutions.
- Requires the Department to assign community schools and STEM schools serving students in any of grades seven through twelve to a career-technical planning district.
- Requires the Department to adopt new quality program standards for category three career-technical education programs not later than December 31, 2013, and for category one, two, four, and five career-technical education programs not later than June 30, 2015.

## **Spending economically disadvantaged funds**

- Requires a city, local, exempted village, or joint vocational school district, community school, or STEM school to spend the economically disadvantaged funds it receives on specified initiatives.
- Requires each district and school to submit a report to the Department at the end of each fiscal year describing the initiatives on which the district's or school's economically disadvantaged funds were spent during that fiscal year, and requires the Department to submit a report of this information to the General Assembly not later than December 1 of each odd-numbered year, starting in 2015.

## **Transportation funding**

- Eliminates certain adjustments of transportation payments but maintains the transportation base payment for each city, local, and exempted village school district.
- Requires the Department, for fiscal years 2014 and 2015, to pay each district a pro rata portion of the calculated transportation funding.
- Requires the Department to pay specified low-wealth, low-rider density districts an additional payment on top of the pro rata payment.

## **Accountability for subgroups**

- Specifies that the certification of state operating funds to school districts must include the amounts payable to each school building for each subgroup of students that receives certain state-funded services (students with disabilities, economically disadvantaged students, limited English proficient students, and gifted students).
- Requires that, if the Department determines that a district or school has not reached satisfactory achievement and progress for a subgroup, based on measures established by the State Board, a district or school must submit an improvement plan to the Department which may include partnering with another entity for services to that subgroup.
- Requires the State Board of Education to establish measures of satisfactory achievement and progress not later than December 31, 2014, and requires the Department to use these measures to determine if a district or school has made satisfactory achievement and progress for certain subgroups beginning September 1, 2015.

## **Educational service center funding**

- Repeals a provision of prior law that set forth a permanent system for state payments for educational service center (ESC) supervisory services and, instead, temporarily prescribes per pupil payments for fiscal years 2014 and 2015.
- Retains a continuing requirement that the Department deduct from each client school district of an ESC and pay to the ESC, \$6.50 times the school district's total student count.
- Authorizes school districts, community schools, and STEM schools to enter into ESC shared services agreements.
- Expressly permits joint vocational school districts to enter into fee-for-service agreements.
- Permits a school district, community school, STEM school, or municipal or other political subdivision to elect, at the end of a fiscal year, to have unexpended and unobligated funds that were paid to an ESC during that fiscal year applied toward any payment owed to the ESC in the next fiscal year.

## **Payments for students in county detention facilities**

- Requires the county or joint county juvenile detention facility that cares for a child to coordinate the education of that child and provides that the facility, or the chartered nonpublic school that the facility operates, under certain circumstances, may provide education services to the child.
- Permits a county or joint county juvenile detention facility to contract with an educational service center, the school district in which the facility is located or, in some cases, an Internet- or computer-based community school (e-school) to provide education services to a child under the facility's care.
- Permits any entity that provides education services to a child under a county or joint county juvenile detention facility's care (except an e-school) to directly bill the school district responsible for paying the costs of educating the child.
- Provides that an e-school receive payment under the community school law for a child in a county or joint county facility.

## **Other funding provisions**

- Regarding the expenditure of Auxiliary Services funds for nonpublic school students, replaces the term "electronic textbook" with the term "digital text," as a



consumable book accessed through electronic means and specifies that certain low-cost mobile instructional applications are "consumable," with no expectation of applications being returned.

- Increases to \$360 (from \$325 under prior law) the maximum per pupil amount for reimbursement of chartered nonpublic school administrative costs.
- Provides that a school district (and apparently a community school too) may charge tuition for a student enrolled in all-day kindergarten, as long as it is offering all-day kindergarten for the first time or it charged for all-day kindergarten in the 2012-2013 school year.
- Establishes a temporary task force to review and make recommendations on open enrollment by December 31, 2013.
- Creates the Electronic Textbook Pilot Project to provide competitive grants to public and chartered nonpublic schools to purchase electronic textbooks through the Distance Learning Clearinghouse.
- Repeals some obsolete funding provisions.

## **II. Community Schools**

- Removes the requirement that a community school must have filed its contract by May 15, 2008, but not opened prior to July 1, 2008, to operate in multiple facilities if it meets certain other conditions regarding its operator.
- Specifies that the initial term under an agreement between the Department and a community school sponsor runs for up to seven years, and establishes eligibility qualifications for extensions of that term.
- Permits the Department to place sponsors of community schools in probationary status if they are found to be noncompliant with applicable laws and administrative rules, and permits the Department to limit a sponsor's ability to sponsor additional schools.
- Specifies that the Department's authority to approve, disapprove, revoke, or limit the approval of an entity's sponsorship applies to both start-up community schools and conversion community schools.
- Authorizes the Department to deny an application submitted under the Ohio School Sponsorship Program by an existing community school, if the school's contract with its sponsor was terminated.



- Permits a community school to enroll students who are not Ohio residents and charge tuition for the enrollment of such students.
- Modifies language regarding grandfathered community school sponsors whose authority to sponsor is not subject to approval by the Department.
- Specifies that a community school that offers any of grades 4 to 8 and does not offer a grade higher than grade 9, in at least two of the three most recent school years, must have been *both*, (1) in a state of academic emergency *and* (2) showed less than one standard year of academic growth in either reading or mathematics, as determined by the Department, to trigger permanent closure of that school.
- Beginning in the 2014-2015 school year, limits the percentage by which an Internet- or computer-based community school (e-school) may increase its enrollment by a prescribed rate of growth above its enrollment limit for the previous school year.
- Limits the first-year enrollment of a new e-school that opens after September 29, 2013, to 1,000 students.
- Includes the rating of "exceeds standards," in addition to "meets standards" under continuing law, as a rating a community school that primarily serves students enrolled in a dropout prevention and recovery program can attain if the program improves by 10% both its graduation rates and percentage of twelfth-grade students and other students passing the graduation assessments.
- Requires the State Board, not later than December 31, 2014, to review the performance levels and benchmarks for report cards issued for dropout recovery community schools.
- Specifies that a suspended community school's contract is void, if the school's governing authority fails to provide a proposal to remedy issues for which it was suspended by September 30 of the following school year.
- Removes a provision that required any classroom teacher initially hired by a community school on or after July 1, 2013, to provide instruction in physical education at that school to hold a valid educator license for teaching physical education.

### **III. Minimum School Year**

Effective July 1, 2014, makes all of the following changes:

- Changes the minimum school year for school districts, STEM schools, and chartered nonpublic schools from 182 days to (1) 455 hours for half-day kindergarten, (2) 910



hours for full-day kindergarten and grades 1 to 6, and (3) 1,001 hours for grades 7 to 12, beginning in the 2014-2015 school year.

- Eliminates excused calamity days for schools generally, as well as the requirement for a contingency plan to make up calamity days, but retains (1) calamity days for community schools and (2) the option for districts and schools to make up some calamity days via online lessons or paper "Blizzard Bags."
- Retains the law defining a school week as five days for school districts, but specifies that a chartered nonpublic school may be open for instruction on any day of the week, including Saturday and Sunday.
- Exempts school districts from transporting students to and from chartered nonpublic and community schools on Saturday or Sunday, unless an agreement to do so is in place prior to July 1, 2014.
- Provides that the restructuring of the minimum school year does not apply to any collective bargaining agreement executed prior to July 1, 2014, but that any collective bargaining agreement or renewal executed after that date must comply with those provisions.

#### **IV. Scholarship Programs**

##### **Ed Choice scholarships**

- Beginning with the 2016-2017 school year, qualifies for Educational Choice (Ed Choice) scholarships students in kindergarten through third grade enrolled in a district-operated school that has received a "D" or "F" in "making progress in improving K-3 literacy" in two of the three most recent state report cards and has not received an "A" in that measure in the most recent state report card.
- Beginning with the 2013-2014 school year, expands the Ed Choice scholarship to qualify students whose family incomes are at or below 200% of the federal poverty guidelines and phases in the expansion by grade level over 13 years.
- Funds the new income-based Ed Choice scholarships from an appropriation made for that purpose by the General Assembly, rather than a deduct and transfer method as used for all other Ed Choice scholarships.
- Prescribes a tiered system of reducing income-based scholarships if a student's family income rises above 200%, 300%, or 400% of the federal poverty guidelines by limiting the student's scholarship to 75% of the full amount, 50% of the full amount, and 0% of the full amount, respectively.

- Makes a change regarding Ed Choice eligibility based on performance index score ratings in order to comport with the recently enacted performance rating system.
- Specifies that if a student is eligible for the Ed Choice scholarship based on both the student's public school performance and the act's new Ed Choice scholarship expansion based on family income, the student applying for the scholarship for the first time must receive the scholarship based on public school performance and not family income.
- Specifies that once a student receives an Ed Choice scholarship, the student will continue to receive the scholarship under the provision for which the student received the scholarship for the previous year.
- Qualifies a student for an Ed Choice scholarship if the student will be enrolling in any of grades kindergarten through twelve in Ohio for the first time (instead of "eligible to enroll in kindergarten," as under prior law) in the school year for which the scholarship is sought and the district or building the student would otherwise attend qualifies for scholarships.
- Specifies that a student who will be enrolling in any of grades kindergarten through twelve in Ohio for the first time and would otherwise be assigned to a school building that would qualify for the Ed Choice scholarship must be at least five years of age by January 1st of the school year for which the scholarship is sought.

### **Cleveland scholarships**

- Beginning in fiscal year 2014, increases to \$5,700 (from \$5,000) maximum amount of a scholarship awarded under the Cleveland Scholarship Program.

### **Jon Peterson Special Needs scholarships**

- Requires the Department to reimburse school districts in fiscal year 2014 for the full amount deducted from their state education payments under the Jon Peterson Special Needs Scholarship Program for scholarships for students who did not attend a public school in their resident district in the previous school year, and appropriates \$5 million from the General Revenue Fund for this purpose.
- Specifies that beginning in the 2014-2015 school year, a scholarship received by an eligible applicant under the Jon Peterson Special Needs Scholarship Program for a child whose primary or only identified disability is a speech and language disability may only be used to pay for "related services" that are included in the child's individualized education program.

- Requires the Department to conduct a formative evaluation of the Jon Peterson Special Needs Scholarship Program and to report the findings to the General Assembly by December 31, 2015.

### **Autism scholarships**

- Specifies that individuals that provide services to a child under the Autism Scholarship Program are not required to obtain a one-year, renewable instructional assistant permit until December 20, 2014 (instead of December 20, 2013, as under prior law).

### **Administration of state assessments to scholarship students**

- Requires each chartered nonpublic school to administer the state achievement assessments to all of its students if at least 65% of its total enrollment is made up of students who are participating in the Educational Choice Scholarship Program, Autism Scholarship Program, Jon Peterson Special Needs Scholarship Program, or the Pilot Project (Cleveland) Scholarship Program, but provides for a parental opt-out of the elementary assessments for students not participating in a scholarship program.

## **V. State Board of Education Standards and Reporting**

- Makes changes to the requirements for minimum operating standards for all elementary and secondary schools.
- Revises the specifications for State Board's financial reporting standards to require reporting at both the school district and the school building level and requires community schools, STEM schools, and college-preparatory boarding schools to report financial information in the same manner as school districts.
- Requires the Department (1) to post financial reports of each school district and school building in a prominent location on its web site, (2) to notify each school when the reports are made available, and (3) to make all reports available in such a way that allows for comparison between financial information included in these reports and in reports produced prior to July 1, 2013.
- Requires the Department to create a performance management section on its web site that includes academic and performance metrics for each school district based on performance index score and the expenditure per equivalent pupils, and graphs with comparisons of the performance of like districts and permits the Department to contract with an independent organization to develop and host the performance management section.

- Requires the Department to compute and to post, for each school district and public school, both (1) the total operating expenditures per pupil, and (2) the total operating expenditure per equivalent pupils, but only requires that the total operating "expenditure per equivalent pupils" measure be used by the Department in the ranking of school districts and schools.

## **VI. Student Transportation**

- Effective July 1, 2014, changes the minimum amount for payment in lieu of transportation from an amount determined by the Department to an amount determined by the General Assembly.
- Specifies that the minimum amount for a payment in lieu of transportation is \$250 for fiscal years 2014 and 2015.
- Permits the governing authority of a chartered nonpublic school to charge a student's parent or guardian a fee for transportation to and from school, regardless of whether the student is eligible for transportation by a school district, if the governing authority purchased the vehicle transporting the student without state or federal funds.
- Beginning July 1, 2014, allows a newly opening community school to accept responsibility for providing or arranging for the transportation of a district's resident students who will attend the school.
- Requires school districts to report transportation funding data to the Education Management Information System.

## **VII. Other Education Provisions**

### **Educational service center supervision**

- Makes a number of changes to the relationship between educational service centers and school districts, specifically regarding administrative oversight and duties customarily performed by service centers.

### **Post-Secondary Enrollment Options Program**

- Qualifies homeschooled students for in the Post-Secondary Enrollment Options Program (PSEO).
- Requires that payments made to a participating college in which students are enrolled under PSEO be made in the same manner as payments made for participating students from nonpublic secondary schools.



- Prohibits a district or school from entering into an alternative funding agreement that provides for charging a participating student any tuition or fees for college courses under PSEO.
- Prohibits state reimbursement to participating colleges under PSEO for remedial college courses.
- Requires that students be qualified to participate in PSEO based solely on the participating college's established placement standards for credit-bearing, college-level courses.
- Requires the Department annually to compile a list of all institutions of higher education that currently participate in PSEO or in other dual enrollment programs and, not later than December 31 of each school year, to distribute that list to all school districts, community schools, STEM schools, and chartered nonpublic schools in the state.
- Requires each district or school to provide the list of participating higher education institutions, as part of the counseling services required of the district or school prior to a student's participation in PSEO, to interested students and their parents or guardians.

### **Dual enrollment programs**

- Specifically includes Early College High Schools in the list of programs that qualify as "dual enrollment."
- Prohibits school districts and public schools from charging an enrolled student any additional fee or tuition for participation in a dual enrollment program offered by that district or school; however, the act specifies that a student may be required to pay for costs related to an Advanced Placement or International Baccalaureate examination.

### **College Credit Plus program recommendations**

- Requires the Chancellor of the Board of Regents, by December 31, 2013, to make recommendations for the establishment of the "College Credit Plus" program to the Governor, the President of the Senate, and the Speaker of the House.

### **Articulation agreements for technical coursework**

- States that the act's changes regarding the PSEO program do not require the alteration of (1) any existing or future articulation agreement for technical

coursework or (2) any corresponding payment structure between a state institution of higher education and a career-technical planning district.

- Requires the Department of Education and the Board of Regents to submit to the Governor's Office of 21st Century Education and the General Assembly, not later than July 1, 2014, recommendations regarding the inclusion of career-technical programs in the PSEO program.

### **Participation in district extracurricular activities**

- Affords students enrolled in chartered or nonchartered nonpublic schools and homeschooled students the opportunity to participate, under specified conditions, in an extracurricular activity at the school of the student's resident school district.
- Permits the superintendent of any school district to afford to any student, who is enrolled in a nonpublic school and is *not* entitled to attend school in that district, the opportunity to participate in a school's extracurricular activities if (1) the nonpublic school in which the student is enrolled does not offer the extracurricular activity, and (2) the extracurricular activity is not interscholastic athletics or interscholastic contests or competition in music, drama, or forensics.
- Authorizes, but does not require, the superintendent of any school district to afford any homeschooled student who is *not* entitled to attend school in that district the opportunity to participate in a school's extracurricular activities, if the activity is not offered by the student's resident district.
- Removes a provision from prior law that specified that a student enrolled in a STEM school must "be afforded the opportunity to participate" in an extracurricular activity at the school operated by the student's resident district and, instead, specifies that a student enrolled in a STEM school must "not be prohibited from participating" in an extracurricular activity.
- Prohibits a school district board of education from taking any action contrary to the provisions of law that generally authorize students enrolled in a community or STEM school the opportunity to participate in an extracurricular activity at the school operated by the student's resident district.

### **Chartered nonpublic school end-of-course examination exemption**

- Exempts students who attend chartered nonpublic schools accredited through the Independent School Association of the Central States from passing the end-of-course examinations as a prerequisite for high school graduation.



## **Kindergarten diagnostics**

- Modifies the timeline for administering kindergarten readiness assessments, beginning July 1, 2014, to not earlier than the first day of the school year and not later than November 1.
- Specifies that when administering the kindergarten readiness assessments after July 1, 2014, the language and reading skills portion of the assessment must be administered by September 30.

## **Kindergarten early enrollment**

- For the 2012-2013 school year, prohibits any entity from requiring a student who was admitted to and successfully completed kindergarten in that school year to repeat kindergarten based solely on the student's age.
- Specifies that a child who will be five or six years old prior to January 1 of the year in which admission is requested be evaluated for early admittance and admitted, based on the district's decision, in accordance with the school district's policy.

## **Joint vocational school district board membership**

- Requires members of a joint vocational school district (JVSD) board of education to meet specified qualifications.
- Limits JVSD board members to two consecutive three-year terms of office.

## **Extended programming**

- Requires extended programming offered by school districts for career-technical education students to be used for activities that involve direct contact with students or are directly related to student programs and activities.
- Prohibits a licensed educator from providing more than eight hours of extended programming in a 24-hour day.
- Permits a school district to employ certificated instructional personnel for "hours" outside of the normal school day for the purpose of providing extended programming.
- Requires the Department to issue a report, not later than December 31, 2013, with recommendations for quality agricultural programs, and permits the Department to periodically review and update the report as it considers necessary.



- Requires all agricultural education instructors to (1) utilize a three-part model of agricultural education instruction focusing on classroom instruction, FFA activities, and extended programming projects and (2) submit a monthly time log to the principal of the school at which the extended programming is offered, or the principal's designee, for review.

### **School employees**

- Specifies that a student who has 45 or more excused or unexcused absences in a "full academic year" must not be included in calculating student academic growth for a teacher evaluation.
- Replaces the term "proficient" with the term "skilled" for the second highest level of performance for teacher and evaluation ratings.
- Would have exempted from the teacher content knowledge retesting requirement a community school comprised of students with disabilities (VETOED).
- Authorizes the board of education of a school district that elects not to appoint a licensed business manager to assign the statutory duties of a business manager to other employees or officers, including the district treasurer, and to give those employees any title that reflects the assignment of those duties.
- Permits a school district or educational service center board to designate an individual other than the superintendent to perform the task of nominating for employment any teacher who is related to the superintendent.
- Requires that human trafficking content be included in a school's in-service staff training program for school safety and violence prevention.

### **Other provisions**

- Makes changes in the administration of the Governor's Effective and Efficient Schools Recognition Program, including qualifying public college-preparatory boarding schools for the program.
- Expressly permits a STEM school to contract for any services necessary for the operation of the school.
- Revises the provisions of the voluntary physical activity pilot program.
- Specifies that the State Board, beginning with the 2015-2016 school year and at least once every three years thereafter, must review and may adjust the benchmarks for

assigning letter grades under the academic performance rating system for school districts and schools.

- Repeals an apparently obsolete provision that permitted the Ohio Department of Education to implement a No Child Left Behind waiver application once approved by the U.S. Department of Education.
- Modifies the Ohio statutory definition of the "No Child Left Behind Act" to include any waiver approved by the U.S. Department of Education.
- Requires the Superintendent to appoint three individuals to create a nonprofit corporation named "New Leaders for Ohio Schools" to create and implement a pilot program that provides an alternative path for individuals to receive training and development in the administration of primary and secondary education.
- Requires the State Board to adopt rules for the issuance of an alternative principal or administrator license to an individual who successfully completes the New Leaders for Ohio Schools pilot program.
- Authorizes the board of education of a school district to pay money received from the sale of real property into the school district's capital and maintenance fund and used only to pay for nonoperating capital expenses related to technology infrastructure and equipment to be used for instruction and assessment.
- Clarifies that the board of directors of a municipal school district (Cleveland) transformation alliance, and its committees and subcommittees, may hold executive sessions, as if they were a public body with public employees, for any of the reasons for which an executive session may be held under the Open Meetings Law.
- Creates the State School for the Blind Employees Food Service Fund and the State School for the Deaf Employees Food Service Fund, each of which consists of payments received from each school's employees who make purchases from the school's food service program.

## **I. School Financing**

### **New funding system for primary and secondary education**

(R.C. 3302.20, 3310.08, 3310.41, 3310.56, 3311.52, 3313.646, 3313.841, 3313.88, 3313.98, 3313.981, 3314.029, 3314.03, 3314.08, 3314.082, 3314.083, 3314.084, 3314.086, 3314.087, 3314.091, 3314.11, 3314.26, 3317.01, 3317.013, 3317.014, 3317.016, 3317.017, 3317.02,



3317.022, 3317.023, 3317.024, 3317.0212, 3317.0213, 3317.0214, 3317.0217, 3317.03, 3317.032, 3317.033, 3317.034, 3317.05, 3317.051, 3317.08, 3317.081, 3317.10, 3317.16, 3317.161, 3317.19, 3317.20, 3317.201, 3317.25, 3317.30, 3318.011, 3318.18, 3318.363, 3318.42, 3319.17, 3319.57, 3321.01, 3323.08, 3323.09, 3323.091, 3323.13, 3323.14, 3323.141, 3323.142, 3326.31, 3326.32, 3326.33, 3326.34, 3326.38, 3326.39, 3326.40, 3327.05, 3328.32, 3328.33, 3365.01, 5126.05, 5727.84, 5727.85, and 5751.20; Sections 120.10, 120.11, 120.12, 263.230, 263.240, 263.250, 263.251, 263.320, 263.325, and 263.500; repealed R.C. 3314.088, 3314.13, 3317.012, 3317.018, 3317.029, 3317.052, 3317.053, and 3323.16)

The act creates a new system of financing for school districts and other public entities that provide primary and secondary education. For a more detailed description of the act's school funding system, see the LSC Greenbook for the Department of Education and the LSC Comparison Document of the act. Both documents are published on the LSC web site at [www.lsc.state.oh.us/](http://www.lsc.state.oh.us/). Click on "Budget Bills and Related Documents," then on "Main Operating," and then on "Greenbooks" or "Comparison Document."

Note, as used below, "ADM" means average daily membership. Under law retained by the act for fiscal year 2014, average daily membership is the full-time equivalent number of students counted and certified annually by a school district that is used by the Department of Education to compute the district's funding for a particular purpose or category. Beginning in fiscal year 2015, the act requires a district to report its enrollment three times during a school year rather than counting and certifying its full-time equivalent number of students annually. The Department must use the reported enrollment to calculate a district's average daily membership for the specific purposes or categories required for the act's school funding system, including a district's "formula ADM" and "total ADM" (see "**Student counts: New system for reporting student counts**" below).

## Formula amount

(R.C. 3317.02)

The act specifies a formula amount of \$5,745 for fiscal year 2014, and \$5,800, for fiscal year 2015. That amount is incorporated in the school funding system as described below. It is also used in computing transfer payments under interdistrict open enrollment<sup>38</sup> and in computing a district's required annual deposit into its capital and maintenance fund.<sup>39</sup>

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<sup>38</sup> R.C. 3313.98.

<sup>39</sup> R.C. 3315.18, not in the act.



## Core foundation funding

### City, local, and exempted village school districts

(R.C. 3317.017, 3317.022, and 3317.0217)

The act specifies that core foundation funding for each city, local, and exempted village school district is the sum of the following:

(1) An opportunity grant that is equal to the formula amount times the sum of the district's formula ADM and the district's preschool scholarship ADM<sup>40</sup> times the district's state share index.

A city, local, or exempted village school district's "**state share index**" is an index that depends on valuation and, for districts with relatively low median income, on median income. This index is adjusted for school districts where 30% or more of the potential taxable valuation is exempted from taxation, which reduces the qualifying districts' three-year property valuation in the formula and, thereby, increases their calculated core funding. In addition to applying this index to the opportunity grant, the act applies the index to the calculation of special education funds, kindergarten through third grade literacy funds, limited English proficiency funds, and career-technical education funds.

(2) Targeted assistance funding based on a district's property value and income;

(3) Targeted assistance supplemental funding based on a district's percentage of agricultural property;

(4) A specific amount for each of six categories of disabilities for special education and related services;

(5) Kindergarten through third grade literacy funds;

(6) Economically disadvantaged funds;

(7) A specific amount for each of three limited English proficiency categories;

(8) Gifted identification funds in an amount of \$5, in fiscal year 2014, or \$5.05, in fiscal year 2015, per student in the district's formula ADM;

(9) Gifted unit funding (see below);

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<sup>40</sup> A district's "preschool scholarship ADM" is the number of preschool children receiving a scholarship to attend an alternative provider under the Autism Scholarship Program.

(10) A specific amount for each of five career-technical education categories. Payment of these funds is subject to receiving approval through a process outlined in the act (see "**Approval of career–technical education programs**" below).

(11) Career-technical education "associated services" funds equal to a district's total career-technical ADM times the district's state share index times \$225, in fiscal year 2014, or \$227, in fiscal year 2015.

### **Joint vocational school districts**

(R.C. 3317.16)

The act specifies that core foundation funding for each joint vocational school district is the sum of the following:

(1) An opportunity grant based on a district's valuation calculated under the following formula:

(The formula amount X the district's formula ADM) – (0.0005 X the district's three-year average valuation)

A joint vocational school district's "**state share percentage**" is equal to the opportunity grant divided by the product of the formula amount and the district's formula ADM. The act applies this factor in calculating special education funds, limited English proficiency funds, and career-technical education funds.

(2) A specific amount for each of six categories of disabilities for special education and related services;

(3) Economically disadvantaged funds;

(4) A specific amount for each of three limited English proficiency categories;

(5) A specific amount for each of five career-technical education categories;

(6) Career-technical education associated services funds calculated in a manner similar to other districts.

### **Community schools and STEM schools**

(R.C. 3314.08 and 3326.33)

For community schools and science, technology, engineering, and mathematics (STEM) schools, the act specifies per-pupil payments for each enrolled student and



corresponding deductions from the state education aid account of the student's resident district as follows:

- (1) An opportunity grant that is equal to the formula amount;
- (2) The per-pupil amount of targeted assistance funding (but not targeted assistance supplemental funding) for each student's resident school district times 0.25 (except in the case of Internet- or computer-based community schools (e-schools));
- (3) A specific amount for a student's disability category for special education services;
- (4) A specific amount if the student is in kindergarten through third grade (except in the case of e-schools);
- (5) Economically disadvantaged funds based on the resident district's economically disadvantaged index (except in the case of e-schools);
- (6) A specific amount for a student's limited English proficiency category (except in the case of e-schools);
- (7) A specific amount for a student's career-technical education category. Payment of these funds is subject to receiving approval through a process outlined in the act (see "**Approval of career–technical education programs**" below).

## **Student counts**

### **New system for reporting student counts**

(Sections 120.10, 120.11, 120.12, and 263.251)

Law retained by the act for fiscal year 2014<sup>41</sup> requires the superintendent of each city, local, exempted village, and joint vocational school district to certify the average daily membership of students receiving services from schools under the superintendent's supervision during the first full week of October.

Beginning in fiscal year 2015, the act requires a superintendent of a district to report (rather than certify) the enrollment (rather than the average daily membership) of students receiving services from schools under the superintendent's supervision as of the last day of October, March, and June of each year. The Department of Education must create reports of the enrollment reported by each district, and the superintendent of each district must certify the Department's report for the district. Using the

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<sup>41</sup> R.C. 3317.03, as amended in Section 101.01 of the act.



enrollment reported by a district, the Department must calculate a district's average daily membership for the specific purposes or categories required for the act's school funding system, including a district's "formula ADM" and "total ADM."

The act also requires the Department to convene, during the 2013-2014 school year, a group of representatives of school districts from throughout the state to assist and advise in the development of the guidelines, policies, and reports that will be necessary to implement the reporting of an annualized full-time equivalent student enrollment. The Department must develop the guidelines and policies required to implement the changes described above in a manner that will ensure students are accurately accounted for in the enrollment data of each district.

### **Counting kindergarten students**

(R.C. 3317.03(C)(1))

The act provides for the counting of kindergarten students on the basis of the full-time equivalency for which they are enrolled. Under prior law, all kindergarten students were counted as one full-time equivalent student regardless of whether they attended kindergarten for a full day or part of a day.

(See also "**Fees for all-day kindergarten**" below.)

### **Reporting of economically disadvantaged students**

(R.C. 3314.08(B), 3317.03(B)(21) and (D)(2), and 3326.32)

The act prohibits a city, local, exempted village, or joint vocational school district, community school, or STEM school from categorically excluding a student from its reported number (or, beginning in fiscal year 2015 for school districts, its certified enrollment) of economically disadvantaged students based on anything other than family income.

### **Payments prior to 90-day effective date**

(Section 263.230)

Most of the act's school funding provisions take effect on September 29, 2013. The act requires the Superintendent of Public Instruction, prior to that date, to make operating payments in amounts "substantially equal" to those made in the prior year, "or otherwise," at the Superintendent's discretion. Additionally, if a new school district, community school, or STEM school opens prior to that date, the act requires the Department to pay the new district or school an amount of \$5,000 per pupil based on the estimated number of students that the district or school is expected to serve and to



credit any amounts paid toward the annual funds calculated for the district or school following that date.

## **Payment caps and guarantees**

(Sections 263.240 and 263.250)

The act adjusts a city, exempted village, or local school district's aggregate amount of core foundation funding, pupil transportation funding, and transportation supplement funding by imposing a cap that restricts the increase in the aggregate amount of funding over the previous year's state aid to no more than 6.25% of the previous year's state aid in fiscal year 2014 and 10.5% of the previous year's state aid in fiscal year 2015. This capped funding is further adjusted by guaranteeing that all districts receive at least the amount of state aid received in fiscal year 2013.

Similarly, joint vocational schools districts are guaranteed to receive at least the amount of state aid received in fiscal year 2013 but are also subject to a cap that limits the increase in state aid to no more than 6.25% of the previous year's state aid in fiscal year 2014 and 10.5% of the previous year's state aid in fiscal year 2015.

The act also requires the Department to adjust, as necessary, the transitional aid guarantee base of school districts that participate in the establishment of a joint vocational school district that first begins receiving core foundation funding in fiscal year 2014 and to establish, as necessary, the guarantee base of the new joint vocational school district as an amount equal to the absolute value of the sum of the associated adjustments for the participant school districts.

## **Straight A Program**

(Sections 263.10, 263.320, and 263.325)

The act creates, for fiscal years 2014 and 2015, the Straight A Program to provide grants to school districts, educational service centers, community schools, STEM schools, college-preparatory boarding schools, individual school buildings, education consortia (which may represent a partnership among school districts, school buildings, community schools, or STEM schools), institutions of higher education, and private entities partnering with one or more of those educational entities for projects that aim to achieve significant advancement in one or more of the following goals: (1) student achievement, (2) spending reduction in the five year fiscal forecast, and (3) utilization of a greater share of resources in the classroom.



The act appropriates \$88.7 million, for fiscal year 2014, and \$144.7 million, for fiscal year 2015, from the Lottery Profits Education Fund to finance grants under the program.

## **Grant application process**

### **Grant proposal**

The act requires each grant applicant to submit a proposal that includes all of the following:

(1) A description of the project for which the applicant is seeking a grant, including a description of how the project will have substantial value and lasting impact;

(2) An explanation of how the project will be self-sustaining. If the project will result in increased ongoing spending, the applicant must show how the spending will be offset by "verifiable, credible, permanent spending reductions."

(3) A description of quantifiable results of the project that can be benchmarked.

If an education consortium applies for a grant, the lead applicant must be the school district, school building, community school, or STEM school that is a member of the consortium. The lead applicant must indicate on the application which entity is the lead applicant.

### **Grant evaluation system**

The act requires the Department to establish, with the approval of the governing board (see "**Grant decision**" below), an evaluation and scoring system for awarding grant applications.

### **Grant decision**

The act requires grant decisions to be made by a "governing board" consisting of nine members: the Superintendent, or the Superintendent's designee, four members appointed by the Governor, two members appointed by the Speaker of the House, and two members appointed by the President of the Senate. The board must create a grant application and publish on the Department's web site the application and a timeline for the submission, review, notification, and awarding of grant proposals.

Within 75 days after receiving a grant application, the governing board must issue a decision on the application of "yes," "no," "hold," or "edit." In making its decision, the board must consider whether the project has the capability of being replicated in other school districts and schools or creates something that can be used in other districts



or schools. If the board issues a "hold" or "edit" decision for an application, it must, upon returning the application to the applicant, specify the process for reconsideration of the application. An applicant may work with the grant advisors and staff to modify or improve a grant application (see "**Grant advisors**" below).

### **Grant amount**

The act specifies a maximum grant amount that may be awarded in each fiscal year as follows:

(1) \$5 million for a grant awarded to a school district, educational service center, community school, STEM school, college-preparatory boarding school, individual school building, institution of higher education, or private entity partnering with one or more of the educational entities identified in the act; and

(2) \$15 million for a grant awarded to an education consortia.

The Superintendent may make recommendations to the Controlling Board that these maximum amounts be exceeded. Upon Controlling Board approval, grants may be awarded in excess of these amounts.

### **Grant agreement**

Upon deciding to award a grant to an applicant, the board must enter into a grant agreement with the applicant that includes all of the following:

(1) The content of the applicant's proposal;

(2) The project's deliverables and a timetable for their completion;

(3) Conditions for receiving grant funding;

(4) Conditions for receiving funding in future years if the contract is a multi-year contract;

(5) A provision specifying that funding will be returned to the governing board if the applicant fails to implement the agreement, as determined by the Auditor of State; and

(6) A provision specifying that the agreement may be amended by mutual agreement between the board and the applicant.

Each grant awarded to an applicant must be subject to approval by the Controlling Board prior to execution of this agreement.



## **Annual report regarding the grant program**

The act requires the board to issue an annual report to the Governor, the Speaker of the House, the Senate President, and the chairpersons of the House and Senate Education committees regarding the types of grants awarded, the grant recipients, and the effectiveness of the grant program.

## **Administration of the grant program**

### **Grant advisors**

The act requires the governing board to select grant advisors with fiscal expertise and education expertise. These advisors must evaluate proposals from grant applicants and advise the staff administering the program.<sup>42</sup>

### **Administrative support**

The act requires the Department to provide administrative support to the governing board.

### **Advisory committee**

The act establishes an advisory committee that consists of not more than 11 members appointed by the Governor that represent all areas of Ohio and different interests. The committee must annually review the grant program and provide strategic advice to the governing board and the Director of the Governor's Office of 21st Century Education.

## **Special education funding**

### **Special education categories and multiples**

(R.C. 3310.56 and 3317.013)

The act specifies the following dollar amounts for the six categories of special education services, rather than multiples (or weights) that were multiplied by the formula amount under prior law, and adds one type of disability to category two, as described in the table below:

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<sup>42</sup> As in the case of the governing board, grant advisors may not be compensated for their services.

Category	Disability under prior law	Disability under the act	Multiple under prior law <sup>43</sup>	Dollar amount for fiscal year 2014 under the act	Dollar amount for fiscal year 2015 under the act
1	Speech and language disability	Unchanged from prior law	0.2906	\$1,503	\$1,517
2	Specific learning disabled; developmentally disabled; other health impaired-minor	Adds "preschool child who is developmentally delayed" to the disabilities listed in prior law; otherwise unchanged from prior law	0.7374	\$3,813	\$3,849
3	Hearing disabled; severe behavior disabled	Unchanged from prior law	1.7716	\$9,160	\$9,248
4	Vision impaired; other health impairment-major	Unchanged from prior law	2.3643	\$12,225	\$12,342
5	Orthopedically disabled; multiple disabilities	Unchanged from prior law	3.2022	\$16,557	\$16,715
6	Autistic; traumatic brain injuries; both visually and hearing impaired	Unchanged from prior law	4.7205	\$24,407	\$24,641

With respect to the Jon Peterson Special Needs Scholarship Program, the act changes the formula used to calculate scholarships under that program to align with the special education categories and amounts described above.

### **Catastrophic cost for special education students**

(R.C. 3314.08, 3317.0214, 3317.16, and 3326.34)

Law largely retained by the act requires the Department to pay to a city, local, exempted village, or joint vocational school district, community school, or STEM school a certain amount of the costs incurred by the district or school for a student in categories two through six special education ADM that are in excess of the specified

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<sup>43</sup> Under prior law, the prescribed multiples were adjusted by further multiplying them by .90 (90%).



threshold catastrophic cost for serving the student.<sup>44</sup> The act changes the formula for calculating the amount of a city, local, or exempted village school district's payment to align with the act's school funding formula by replacing a district's state share percentage with a district's state share index, but it does not change the formula for calculating the amount of a joint vocational school district's, community school's, or STEM school's payment.

### **Preschool special education funding**

(R.C. 3317.0213)

The act specifies a formula for additional state aid for preschool special education children for city, local, and exempted village school districts and for institutions<sup>45</sup> and eliminates all references to unit funding for preschool children with disabilities. The act's formula pays \$4,000 plus one-half of the categorical special education amount times the district's state share index for each preschool special education student.

If an educational service center is providing services to preschool special education students under agreement with the district in which the students are entitled to attend school, the act permits that district to authorize the Department to transfer its preschool special education funds to the service center providing those services.

However, if a county DD board<sup>46</sup> is providing services to preschool special education students under agreement with the district in which the students are entitled to attend school, the act requires the Department to deduct from the district's preschool special education payment the total amount of those funds that are attributable to those students and pay that amount to the DD board.

### **Funding for limited English proficient students**

(R.C. 3317.016)

The act establishes the following dollar amounts for categories of limited English proficient students:

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<sup>44</sup> Under law retained by the act, the threshold amount is \$27,375, for a student in categories two through five, and \$32,850, for a student in category six.

<sup>45</sup> Institutions eligible for this additional state aid are the departments of Mental Health and Addiction Services, Developmental Disabilities, Youth Services, and Rehabilitation and Correction (see R.C. 3323.091).

<sup>46</sup> A county DD board is a county board of developmental disabilities.



Category	Type of student	Dollar amount for fiscal year 2014	Dollar amount for fiscal year 2015
1	A student who has been enrolled in schools in the United States for 180 school days or less and was not previously exempted from taking the spring administration of either of the state's English language arts assessments (reading or writing)	\$1,500	\$1,515
2	A student who has been enrolled in schools in the United States for more than 180 school days or was previously exempted from taking the spring administration of either of the state's English language arts assessments (reading or writing)	\$1,125	\$1,136
3	A student who does not qualify for inclusion in categories 1 or 2 and is in a trial-mainstream period, as defined by the Department	\$750	\$758

## Gifted unit funding

(R.C. 3317.051)

### Allocation and payment of gifted units

The act requires the Department to allocate funding units to a city, exempted village, or local school district for services to identified gifted students, as follows:

(1) One gifted coordinator unit for every 3,300 students in a district's gifted unit ADM (which is the district's formula ADM minus the number of its resident students enrolled in community schools and STEM schools), with a minimum of 0.5 units and a maximum of 8 units for any district.

(2) One gifted intervention specialist unit for every 1,100 students in a district's gifted unit ADM, with a minimum of 0.3 units allocated for any district.

For fiscal year 2014, the Department must pay gifted unit funding to a district in an amount equal to \$37,000 times the number of units allocated to the district. For fiscal year 2015, the Department must pay gifted unit funding to a district in an amount equal to \$37,370 times the number of units allocated to the district.



## **Use of unit funds (VETOED)**

The Governor vetoed a provision that would have required a district to use the funds it receives for gifted coordinator units only for gifted coordinator services and the funds it receives for gifted intervention specialist units only for gifted intervention specialist services. Additionally, the Governor vetoed a provision that would have required a district to employ qualified personnel to provide gifted services on a full-time equivalency basis that corresponds to either the gifted coordinator or gifted intervention specialist units allocated to the district.

## **Assignment of unit funding (PARTIALLY VETOED)**

The act also permits a school district to assign its gifted unit funding to another school district, an educational service center, a community school, or a STEM school as part of an arrangement to provide gifted student services for the district. The Governor vetoed a provision that would have required a district choosing to assign its gifted unit funding to assign the funds it received for gifted coordinator units to a district, service center, or school that employs qualified gifted coordinators and the funds it received for gifted intervention specialist units to a district, service center, or school that employs qualified gifted intervention specialists.

## **Career-technical education funding**

### **Career-technical education categories and multiples**

(R.C. 3317.014)

The act revises the career-technical education program categories that existed in prior law by changing the types of programs that are considered category one and two programs and by creating three additional categories of career-technical education programs. It also specifies dollar amounts for all five categories of career-technical education programs (rather than the multiples of the formula amount that applied to categories one and two under prior law).

The following table explains these changes in greater detail:

Category	Career-technical education programs under prior law	Career-technical education programs under the act	Multiple under prior law	Dollar amount for fiscal year 2014 under the act	Dollar amount for fiscal year 2015 under the act
1	Job-training and workforce development programs approved by the Department	Workforce development programs in agricultural and environmental systems, construction technologies, engineering and science technologies, finance, health science, information technology, and manufacturing technologies	0.57	\$4,750	\$4,800
2	Classes other than job training and workforce development programs	Workforce development programs in business and administration, hospitality and tourism, human services, law and public safety, transportation systems, and arts and communications	0.28	\$4,500	\$4,550
3	None	Career-based intervention programs	None	\$1,650	\$1,660
4	None	Workforce development programs in education and training, marketing, workforce development academics, public administration, and career development	None	\$1,400	\$1,410
5	None	Family and consumer science programs	None	\$1,200	\$1,210

The act specifies that each career-technical education program identified in the act shall be defined by the Department in consultation with the Governor's Office of Workforce Transformation.

### **Approval of career-technical education programs**

(R.C. 3317.161; Section 263.500)

The act requires each city, local, or exempted village school district's, community school's, or STEM school's career-technical education programs to be approved in order for the district or school to receive state funding for the students enrolled in the



program.<sup>47</sup> Approval is obtained through a two-step process, which is outlined in greater detail below, that involves an initial decision by the lead district of the district's or school's career-technical planning district (CTPD) and a review of that decision by the Department. Approval is valid for the five fiscal years following the fiscal year in which the program is approved. However, if a district or school becomes a new member of a CTPD, its programs must be approved or disapproved by the lead district of the CTPD during the fiscal year in which the district or school becomes a member of the CTPD even if the five-year approval period has not yet expired.<sup>48</sup> A program's approval is subject to annual review (see "**Annual review of approved programs**" below) and may be renewed at the end of the five-year approval period.

The act specifies that any program that was approved by the Department prior to September 29, 2013, other than programs of a district or school that is becoming a new member of a CTPD, remains valid for the unexpired remainder of the approval period specified by the Department and may then be renewed in accordance with the act's provisions on a date prior to the expiration of the renewal period.

#### **Program approval or disapproval by the lead district of a CTPD**

The act requires the lead district of a CTPD to approve or disapprove for a five-year period each new or existing career-technical education program of the city, local, and exempted village school districts, community schools, and STEM schools that are assigned by the Department to the CTPD. The lead district's decision to approve or disapprove a program must be based on requirements for career-technical education programs that are specified in rules adopted by the Department,<sup>49</sup> which must include all of the following:

- (1) Demand for the career-technical education program by industries in Ohio;
- (2) Quality of the program;
- (3) Potential for a student enrolled in the program to receive the training that will qualify the student for industry credentials or post-secondary education;

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<sup>47</sup> R.C. 3317.16 as re-enacted by the act specifies that a joint vocational school district's career-technical program is subject to approval, but the provision of law that sets forth the approval process (R.C. 3317.161) does not include them.

<sup>48</sup> If any of the district's or school's programs were approved by the Department for an approval period that includes the fiscal year in which the district or school becomes a member of the CTPD, those programs retain their approval status during that fiscal year.

<sup>49</sup> The act specifies that the "Department" adopt these rules. Usually, the Department's rules are adopted by resolution of the State Board.



- (4) Admission requirements of the lead district;
- (5) Past performance of the district or school that is offering the program;
- (6) Traveling distance;
- (7) Sustainability;
- (8) Capacity;
- (9) Availability of the program within the CTPD;
- (10) In the case of a new program, the cost to begin the program.

The lead district must approve or disapprove a program not later than March 1 prior to the first fiscal year for which the district or school is seeking funding for the program. If a program is approved, the lead district must notify the Department of its decision. If a program is disapproved, the lead district must notify the district or school of its decision.

If the lead district disapproves the program or does not take any action to approve or disapprove the program by March 1, the district or school may appeal the lead district's decision or failure to take action to the Department by March 15.

#### **Program approval or disapproval by the Department**

Upon receiving notification of a lead district's approval of a district's or school's career-technical education program or an appeal from a district or school of a lead district's disapproval of a program or failure to take action to approve or disapprove a program, the Department must review the lead district's approval, disapproval, or failure to take action. In conducting its review, the Department must consider the criteria described above. The Department must determine whether to approve or disapprove the program not later than May 15 prior to the first fiscal year for which the district or school is seeking funding for the program. The Department must notify the district or school and the lead district of the district's or school's CTPD of its determination. The act specifies that the Department's decisions are final and not appealable.

If the Department approves a program, it must authorize the payment to the district, or the deduction from the state education aid of a district and payment to a community school or STEM school, of the funds attributed to the career-technical students enrolled in that program in the next fiscal year according to a payment schedule prescribed by the Department.



## **Annual review of approved programs**

The Department and the lead district of each CTPD must conduct an annual review of each career-technical education program in the lead district's CTPD that receives approval. Continued funding of the program during the five-year approval period is subject to the school's compliance with any directives for performance improvement that are issued by the Department or the lead district as a result of any review conducted.

## **Approval of category three career-technical education programs**

Center-based intervention programs (category three) are subject to the approval process described above for funding in fiscal years 2014 and 2015. However, the act requires the Department to conduct a review of all category three career-technical education programs during fiscal year 2015 using the new quality program standards for those programs that the Department must adopt under the act's provisions (see "**New quality program standards for career-technical education programs**" below). Based on this review, the Department must decide whether to approve or disapprove the programs for funding for fiscal years 2016 through 2020 and notify each city, local, exempted village, and joint vocational school district, community school, or STEM school that provides one or more of these programs of its decision not later than May 15, 2015.

## **Expenditures of career-technical education funding**

(R.C. 3314.08(C)(4) and (5), 3317.022(E), 3317.16(D), and 3326.39)

The act specifies that a city, local, exempted village, or joint vocational school district, community school, or STEM school must spend at least 75% of the state career-technical education funding it receives on costs directly associated with career-technical education programs including development of new programs (such as curriculum development, purchase, and implementation; instructional resources and supplies; industry-based program certification; student assessment, credentialing, and placement; curriculum specific equipment purchases and leases; career-technical student organization fees and expenses; home and agency linkages; work-based learning experiences; professional development). No more than 25% of the district's or school's state career-technical education funding may be spent on personnel expenditures. (These requirements are currently prescribed for all career-technical providers by a State Board of Education rule.<sup>50</sup>)

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<sup>50</sup> Ohio Administrative Code 3301-61-16.



The act also specifies that a community school or STEM school receiving state career-technical education funding must spend that funding only for the purposes that the Department designates as approved for career-technical education expenses (which are only the expenses connected to the delivery of career-technical programming to career-technical students). The Department must require the school to report data annually so that the Department may monitor the school's compliance with the requirements for spending state career-technical education funding. This provision already applies to city, local, exempted village, and joint vocational school districts under law retained by the act.

### **Career-technical education provided by community schools**

(R.C. 3314.086 and 3314.087)

The act specifically authorizes community schools to provide career-technical education. Furthermore, it permits a community school to contract with any public agency, board, or bureau or with any private individual or firm for the purchase of any career-technical education or vocational rehabilitation service for any enrolled student and to use career-technical education funding to pay for such services. Under prior law, community schools were not prohibited from providing career-technical education, and additional weighted funds for this education were provided for all community schools except e-schools. The act, however, provides for the payment of career-technical funding for e-schools.

The act also permits a student enrolled in a community school to simultaneously enroll in the career-technical program operated by the career-technical planning district to which the student's resident district belongs, rather than the career-technical program operated by the student's resident district as provided in prior law.

### **Career-technical education associated services funding**

(R.C. 3317.014 and 3317.023)

Law retained by the act requires that a city, local, exempted village, or joint vocational school district's career-technical education associated services funds be deducted from the district's state education aid and credited to the lead district of the city, local, exempted village, or joint vocational school district's CTPD.

The act also specifies that career-technical education associated services must be defined by the Department.

## **Career-technical education at state institutions**

(R.C. 3317.05)

Law retained by the act provides unit funding for career-technical education at state institutions operated by the departments of Mental Health and Addiction Services, Developmental Disabilities, Youth Services, and Rehabilitation and Correction.

## **Assignment to career-technical planning districts**

(R.C. 3317.023)

The act specifies that community schools and STEM schools serving students in any of grades seven through twelve must be assigned to a career-technical planning district by the Department.

## **New quality program standards for career-technical education programs**

(Section 263.500)

The act requires the Department to adopt new quality program standards for category three career-technical education programs not later than December 31, 2013, and for category one, two, four, and five career-technical education programs not later than June 30, 2015.

## **Spending of economically disadvantaged funds**

(R.C. 3314.08(C)(6), 3317.022(F), 3317.16(F), 3317.25, and 3326.40)

The act requires a city, local, exempted village, or joint vocational school district, community school, or STEM school to spend the economically disadvantaged funds it receives for any of the following initiatives or a combination of the following initiatives:

- (1) Extended school day and school year;
- (2) Reading improvement and intervention;
- (3) Instructional technology or blended learning;
- (4) Professional development in kindergarten through third grade;
- (5) Dropout prevention;
- (6) School safety and security measures;
- (7) Community learning centers that address barriers to learning; or



(8) Academic interventions for students in any of grades six through twelve.

Each school district, community school, and STEM school must submit a report to the Department at the end of each fiscal year describing the initiative or initiatives on which the district's or school's economically disadvantaged funds were spent during that fiscal year. Starting in 2015, the Department must submit a report of this information to the General Assembly not later than December 1 of each odd-numbered year.

### **Transportation funding**

(R.C. 3317.0212)

The act removes certain adjustments from the pupil transportation formula for school districts specified in prior law, so that funding is based only on the greater of per rider or per mile costs for each district. The eliminated adjustments are those for (1) nontraditional ridership, (2) high school ridership, (3) distance adjustment to school districts that transport K-8 students who live between one and two miles from school, and (4) efficiency. The payment for transportation is calculated in the same manner as the base payment was calculated in prior law, except that a district's state share percentage is replaced in the calculation with a district's state share index.

The act also requires the Department, in fiscal years 2014 and 2015, to pay each city, local, and exempted village a pro rata portion of the transportation funding described above. Additionally, the act provides a transportation supplement for low-wealth and low-rider density school districts that is equal to the difference between the district's unrestricted pupil transportation formula amount and the prorated amount.

### **Accountability for subgroups**

(R.C. 3317.01 and 3317.40)

The act states that, when state operating funds are provided to school districts for services for a subgroup of students, the General Assembly has determined that these students experience unique challenges requiring additional resources and intends that the funds be used for services that will allow students in those subgroups to master the knowledge base required for high school graduation.<sup>51</sup> For this purpose, a subgroup of

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<sup>51</sup> In making this statement, the act specifies that it is the intent of the General Assembly that state operating funds provided to school districts be used "for the provision of a system of common schools and the advancement of the knowledge of all students." It provides that school districts and schools must be held accountable for those funds to ensure that all students are provided an opportunity to graduate from high school prepared for a career or for post-secondary education.

students is one of the following subsets of the entire student population of a school district or a school building: (1) students with disabilities, (2) economically disadvantaged students, (3) limited English proficient students, or (4) students identified as gifted in superior cognitive ability and specific academic ability fields. Therefore, the act requires the Department, in its certification of state operating funds to school districts, to include the amounts payable to each school building, "at a frequency determined by the Superintendent of Public Instruction," for each subgroup of students receiving services from the district or school.

The act also requires that if a district or school fails to show satisfactory achievement and progress, based on measures determined by the State Board, for any subgroup of students based on the annual state report card performance measures for that subgroup, the district or school must submit an improvement plan to the Department for approval. The plan may be included in any other improvement plan required of the district or school under state or federal law. Additionally, the Department may require that the plan include an agreement to partner with another organization that has demonstrated the ability to improve the educational outcome for that subgroup of students to provide services to those students. The partner organization may be another district, school, or other educational provider.

To facilitate these provisions, not later than December 31, 2014, the State Board must establish measures of satisfactory achievement and progress, which must include annual state report card performance measures. The Department must make the initial determination of satisfactory achievement and progress using those measures not later than September 1, 2015, and then make determinations annually thereafter.

The Department must publish a list of schools, school districts, and other educational providers that have demonstrated an ability to serve each subgroup of students.

### **Educational service center funding**

(R.C. 3313.843; 3313.849; repealed R.C. 3317.11; conforming changes in R.C. 3311.0510, 3312.08, 3313.376, 3313.845, 3315.40, 3317.023, and 3326.45; Section 263.360)

The act repeals a provision of prior law that set forth a permanent statutory structure for state payments to educational service centers (ESC) for services to school districts. However, the act, on a temporary basis, appropriates funds for state payments to ESCs, in the amount of \$43.5 million in fiscal year 2014 and \$40 million in fiscal year 2015 and specifies that the funds be distributed on a per-pupil basis. The amount paid to an ESC, for fiscal year 2014, is \$37 multiplied by the ESC's total student count and, for fiscal year 2015, is \$35 multiplied by its total student count. However, as in past years,



the act specifies that if the appropriation is not sufficient, the act requires that the payments be prorated accordingly.

The act also retains and relocates a provision requiring the Department to annually deduct from each client school district of an ESC and pay to that ESC an amount equal to \$6.50 times the school district's total student count. The act expressly permits the board of education of any client school district to pay an amount in excess of \$6.50 per student and specifies that, if a majority of a service center's districts approve the higher amount, the Department must deduct the approved excess from all of the service center's client school districts.

The act further specifies that any additional funds owed by a district to an ESC must be paid in accordance with the agreements entered into by the ESC and its client school districts. In addition, the act requires each ESC, not later than January 1, 2014, to post on its web site a list of all of the services that it provides and the corresponding cost for each of those services. The act also expressly permits an ESC to apply for federal, state, and private grants.

### **Total student count**

(R.C. 3313.843)

Under the act, "total student count" for purposes of calculating any state subsidy to be paid to an ESC means the sum of the average daily student enrollments reported on the most recent report cards issued by the Department for all of the school districts with primary agreements with the ESC. (Prior law based that count on the average number of students enrolled during the first full school week of October in a school district in grades kindergarten through twelve, including students with a dual enrollment in a joint vocational or cooperative education district that week, and the total number of preschool students with disabilities enrolled on the first day of September.)

### **Shared services agreements**

(R.C. 3313.849)

The act authorizes school districts, community schools, and STEM schools to agree to share any services offered by an ESC and to pool funding resources with any other school districts, community schools, or STEM schools provided that each participant in those shared services specifies in its service agreement: (1) the amount of funds it will contribute toward the total cost of the shared services, (2) the services that will be shared, and (3) the other participating districts or schools. The act requires the Department to pay the ESC for its services under a shared services agreement in the



same manner as is required under a primary ESC agreement. Likewise, under the act, payment for additional services under a shared services agreement is governed by the terms of the fee-for-service agreement.

The act specifies that the authority to enter into a shared services agreement is in addition to the authority to share the services of supervisory teachers, special instruction teachers, special education teachers, and other licensed personnel granted to school district boards of education under law unchanged by the act.<sup>52</sup>

### **Fee-for-service agreements**

(R.C. 3313.844 and 3313.845)

The act expressly permits a joint vocational school district to enter into a fee-for-service agreement with an ESC in the same manner as a school district.

The act also requires the Department, at the request of a school district or community school, to pay the service center the amount due to it under a fee-for-service agreement and to deduct that amount from the payments made to the community school or school district.

Finally, the act specifies that an agreement entered into by a community school and an ESC is valid only if a copy of that agreement is filed with the Department.

### **Process to ensure correct ESC is paid state subsidy**

(R.C. 3313.843)

Under continuing law, a school district may terminate its agreement with its primary ESC by notifying the ESC by the first day of January of any odd-numbered year of the district's intent to terminate the agreement in that year, and that termination is effective on the 30th day of June of that year. When a district terminates such an agreement, it must enter into a new agreement with a primary ESC so that the new agreement is effective on the first day of July of that same year.

The act establishes a process to ensure that when a school district terminates one primary agreement and enters into another primary agreement, the state subsidy for services provided to the district is paid to the new ESC rather than to the prior one.

To that end, the act requires the governing board of any ESC which has received all moneys owed to it by a school district, and within 15 days after the effective date of

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<sup>52</sup> R.C. 3313.841.

the termination of the district's agreement for services, to submit an affidavit to the Department certifying that the district has paid to the ESC what it owes in full. Additionally, the act prohibits the Department from making any payments to any other ESC with which that school district enters into an agreement for services until the Department has received the prior ESC's affidavit.

### **Unexpended and unobligated funds**

(R.C. 3313.848)

The act permits the governing body of the "client" of an ESC to elect, at the end of a fiscal year, to have unexpended and unobligated funds that were paid to the ESC under a service agreement during that fiscal year retained by the ESC for the purpose of applying them toward any payment the client will owe to the ESC for the next fiscal year. For this purpose, the act defines a "client" as a city, local, or exempted village school district, community school, STEM school, or other political subdivision. The act requires the client's treasurer or fiscal officer to indicate this decision and the amount of funds retained by the ESC on the client's end-of-year financial report.

Under the act, a client must expend its retained funds only for services specifically set forth under a service agreement. The act requires the treasurer of the ESC to keep a record of the client's expenditure and the service or services for which the expenditure was made. On at least an annual basis, or upon request, the ESC's treasurer must notify the client's treasurer or fiscal officer of these recorded expenditures. Upon receiving this notification, the client's treasurer or fiscal officer must include the information in the treasurer or fiscal officer's financial report at the next meeting of the client's governing body.

### **Education services for students in county juvenile detention facilities**

(R.C. 2151.362, 3313.64, and 3313.847 (renumbered as 3317.30))

Under continuing law, a child who is between ages five (three, if disabled) and 22 is entitled to attend school in the school district in which the child's parent resides. However, in some cases a child may be entitled to attend school in a different district. One such case is the situation in which a child has been placed in the custody of an agency or a person other than a parent, such as a county or joint county juvenile detention facility. Law unchanged by the act already permits an ESC that provides education services to a child under the care of such a juvenile detention facility to directly bill the school district responsible for paying the cost of educating the child. The act extends this option to other entities.



## **Coordination of education**

Under continuing law, a child placed in the custody of a county or district juvenile detention facility may receive educational services from the school district in which the facility is located. The act places the responsibility of coordinating that education on the facility itself. Under the act, that facility may take several measures to coordinate the education of the child. First, the facility may use the chartered nonpublic school that the facility operates, if it has one, to educate the child. Second, the facility may arrange with the student's resident district or other responsible district for the facility to educate the child on its own. Third, the facility may, by contract, have an ESC or the school district where the facility is located educate the child. Finally, the facility may permit a student who is already enrolled in an Internet- or computer-based community school (e-school) to continue to receive that instruction, provided that the facility possesses the necessary hardware, software, and Internet-connectivity.

## **Direct billing for services**

The act permits the entity that educates the child (the facility, chartered nonpublic school the facility operates, or a school district) to submit an invoice for payment directly to the school district responsible for paying the cost of educating each child (as determined by the court that issued the child's custody order), instead of first billing the district in which the facility is located. Moreover, it instructs the school district responsible for paying the cost of educating the child to pay the entity that educates the child for those services.

The act also directs the district responsible for paying the cost of educating the child to include that child in the district's "average daily membership" (student count for state operating funding) and prohibits any other district from including the child in that count.

If a facility coordinates education services in accordance with one of the first four methods described in "**Coordination of education**" above, the child's resident school district must pay the cost of education based on the per capita cost of the facility. However, under the act, if a facility coordinates education services to a child who is already enrolled in an e-school, as described in "**Coordination of education**" above, payment to that school is to be provided under the regular funding system for e-schools under the Community School Law.<sup>53</sup>

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<sup>53</sup> R.C. 3314.08.

## **Auxiliary Services funds**

(R.C. 3317.06)

Auxiliary Services funds are paid to school districts to be spent on behalf of students enrolled in chartered nonpublic schools. The act replaces the term "electronic textbook," as used under prior law regarding these funds, with the term "digital text." The act, however, generally leaves the definition of the term unaltered except to specify that such texts are "consumable." Thus, under the act, "digital text" means a consumable book or book substitute that a student accesses through the use of a computer or other electronic medium or that is available through an Internet-based provider of course content, or any other material that contributes to the learning process through electronic means.

The act also specifies that mobile instructional applications that are purchased for less than \$10 and distributed to students are to be considered "consumable," without the expectation of the return of those applications.

## **Nonpublic school administrative cost reimbursement**

(R.C. 3317.063)

Each chartered nonpublic school may be reimbursed for administrative and clerical costs incurred as a result of complying with state and federal recordkeeping and reporting requirements. The act increases to \$360 (from \$325 under prior law) the maximum amount per pupil that may be reimbursed to a school each year.

## **Fees for all-day kindergarten**

(R.C. 3321.01(G))

The act permits a school district to charge tuition in any school year following the 2012-2013 school year for a student enrolled in all-day kindergarten, as long as the district is offering all-day kindergarten for the first time or the district charged for all-day kindergarten in the 2012-2013 school year as permitted under prior law. The act requires the Department to adjust a district's average daily membership certification by one-half of the full-time equivalency for each student charged fees or tuition for all-day kindergarten. This provision, by a cross-reference not affected by the act, also appears to apply to community schools.<sup>54</sup> The act retains a stipulation that the fees or tuition

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<sup>54</sup> R.C. 3321.01 is applicable to community schools by reference in R.C. 3314.03(A)(11)(d). However, a separate provision limits a community school's authority to charge tuition (R.C. 3314.08(F) and 3314.26).

charged for all-day kindergarten services must be structured on a sliding scale according to family income.

Under prior law, school districts and apparently community schools were permitted to charge fees or tuition for all-day kindergarten services only if they did not receive a poverty-based assistance payment for all-day kindergarten for fiscal year 2009.

### **Study of open enrollment**

(Section 263.450)

The act establishes a temporary task force to review and make recommendations on open enrollment by December 31, 2013. Under the act, the Superintendent, in consultation with the Governor's Office of 21st Century Education must convene the Task Force consisting of representatives from school districts reflecting all sectors of the state's educational community. The Superintendent must designate the chairperson of the Task Force. All meetings of the Task Force are to be held at the call of the chairperson. The act requires the Task Force to review and make recommendations regarding the process by which students may enroll in other school districts under open enrollment and the funding mechanisms associated with open enrollment deductions and credits. The Task Force must issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House.

### **Electronic Textbook Pilot Project**

(Sections 263.230, 363.180 and 363.580)

The act creates the Electronic Textbook Pilot Project to provide competitive grants to public and chartered nonpublic schools to be used for the purchase of electronic textbooks through the Distance Learning Clearinghouse. The Chancellor of the Board of Regents, who currently administers the Clearinghouse (see "**Distance Learning Clearinghouse**" under "**OHIO BOARD OF REGENTS**," below), also must administer the pilot project and perform all of the following duties related to it:

- (1) Set grant criteria and select grant recipients;
- (2) Review and assess the alignment of courses offered through the electronic distance learning clearinghouse using the statewide academic content standards;<sup>55</sup>
- (3) Issue a request for proposals for grants by January 31, 2014;

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<sup>55</sup> R.C. 3301.079, not in the act.



(4) Award grants by May 31, 2014, for use during the 2014-2015 school year;

(5) Notify schools of, and promote participation in, the pilot project (jointly with the Superintendent); and

(6) Submit a formative evaluation of the implementation and results of the pilot project, along with legislative recommendations for changes to the pilot project, to the Governor and the General Assembly by December 31, 2015.

The act also specifies that the number of grants awarded by the Chancellor may not exceed the number that can be funded with appropriations made for that purpose. The act appropriates \$3 million for each of fiscal year 2014 and 2015 for the pilot project but, as noted above, the grants will only be awarded for the 2014-2015 school year. Thus, the act also specifies that unexpended, unencumbered funds appropriated for fiscal year 2014 carry over to fiscal year 2015.

## **Repeal of obsolete funding provisions**

### **Loans to school districts**

(Repealed R.C. 3313.4811, 3317.62, 3317.63, and 3317.64; conforming changes in R.C. 133.06, 3311.22, 3311.231, 3311.38, 3313.483, 3313.484, 3313.488, 3313.4810, 3315.42, 3316.041, and 3316.06)

The act repeals provisions that authorize the Superintendent to issue loans from the Lottery Profits Education Fund to qualifying school districts (subject to Controlling Board approval) and to administer those loans. These provisions apply to pre-1997 loans, which appear not to have been issued for the past several years.

### **School district debt service deductions**

(R.C. 3317.18)

The act removes a reference to R.C. 133.301, which was repealed in 2002, from a provision authorizing the deduction of a school district's debt service from its state operating funds. The repealed section pertained to the authorization of the issuance of certain securities by a district board.

## **II. Community Schools**

### **Background**

Community schools (often called "charter schools") are public schools that operate independently from any school district under a contract with a sponsoring entity. A conversion community school, created by converting an existing school district



school, may be located in and sponsored by any school district in the state. On the other hand, a new "start-up" community school may be located only in a "challenged school district." A challenged school district is any of the following: (1) a "Big-Eight" school district, (2) a poorly performing school district as determined by the school's performance index, value-added progress dimension, or overall score ratings on the state report card, or (3) a school district in the original community school pilot project area (Lucas County).<sup>56</sup>

The sponsor of a start-up community school may be any of the following:

- (1) The school district in which the school is located;
- (2) A school district located in the same county as the district in which the school is located has a major portion of its territory;
- (3) A joint vocational school district serving the same county as the district in which the school is located has a major portion of its territory;
- (4) An educational service center;
- (5) The board of trustees of a state university (or the board's designee) under certain specified conditions; or
- (6) A federally tax-exempt entity under certain specified conditions.<sup>57</sup>

Many, but not all, community schools are run by "operators," which are for-profit or nonprofit entities that handle all of the day-to-day operations of the schools.

### **Community schools in multiple facilities**

(R.C. 3314.05)

The act revises the law allowing a community school, under certain conditions, to be located in multiple facilities under the same sponsorship contract and to assign students in the same grade to different facilities, both of which are otherwise generally prohibited. The act removes two prior conditions. First, the act removes a requirement that the community school's contract with its sponsor had to be filed with the Superintendent of Public Instruction on or before May 15, 2008. Second, it eliminates the condition that the school could not have been open for operation prior to July 1, 2008.

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<sup>56</sup> R.C. 3314.02, not in the act. The "Big-Eight" districts are Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown.

<sup>57</sup> R.C. 3314.02(C)(1)(a) through (f).



The act retains the following other conditions:

(1) The school's governing authority entered into and maintains a contract with an operator that is a nonprofit organization that provides programmatic oversight and support to the school and that retains the right to terminate its affiliation with the school for failure to meet the organization's quality standards;

(2) The operator with whom the governing authority entered into a contract manages other schools in the United States that perform at a level higher than academic watch, or presumably its equivalent, as determined by the Department of Education and that at least one of the schools managed by the operator in Ohio must perform higher than academic watch, or its equivalent; and

(3) The school's performance rating does not fall below a combination of prescribed levels for specified periods of time.

By removing the timing restrictions, the act presumably allows additional start-up community schools that meet the retained requirements to locate in multiple facilities in one district under the same contract, and to assign students in the same grade to different facilities.

## **Community school sponsor oversight**

(R.C. 3314.015)

The act revises the law with regard to oversight and approval of sponsors of community schools. Most sponsors must be approved by and enter into an agreement with the Department of Education before they may contract with any schools.

### **Sponsor agreement terms**

The act specifies that the initial term of a community school sponsor's agreement with the Department lasts for up to seven years.<sup>58</sup> Moreover, the act adds that, if a sponsor satisfies certain conditions, the Department must add one year to the agreement's term, unless the sponsor does not wish to have the term extended. In addition, either of the following conditions (as applicable) must be satisfied for a sponsor to qualify for a yearly extension:

(1) Prior to January 1, 2015, the sponsor is not ranked in the lowest 20% of sponsors statewide, according to the composite performance index score, under the

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<sup>58</sup> Prior law was silent as to the length of a term of a sponsor's agreement with the Department.



annual sponsor rankings required by separate law,<sup>59</sup> and the sponsor continues to meet all the prescribed community school sponsor requirements; or

(2) On or after January 1, 2015, the sponsor is rated as either "exemplary" or "effective" under the community school sponsor evaluation system that will replace annual rankings effective on that date,<sup>60</sup> and the sponsor continues to meet all the prescribed community school sponsor requirements.<sup>61</sup>

### **Sponsor probation and compliance plans**

Under continuing law, if at any time the State Board finds that a sponsor is no longer willing or able to comply with its duties, the State Board or its designee must conduct an administrative hearing on the matter. If the finding is confirmed, then the Department may revoke the entity's approval to be a school sponsor and may assume sponsorship of the sponsor's schools until the earlier of the expiration of two school years or until the school secures a new sponsor.

The act extends to the Department the option to place a sponsor on probationary status and the option to limit the sponsor's ability to sponsor additional schools, pending satisfactory remedies, rather than outright revoke that authority.<sup>62</sup> To facilitate this option, the act prescribes specific procedures for placing a sponsor on probation. Under the act, if the Department finds that a sponsor is noncompliant with applicable laws and administrative rules, the Department must declare to the sponsor the specific laws and rules for which the sponsor is noncompliant. Upon notification of its noncompliance, a sponsor has 14 days to respond to the Department with a proposed plan to remedy the conditions for which it is noncompliant. The Department must either approve or disapprove the plan within 14 days after receiving the proposed plan. If the plan is disapproved, the sponsor may submit a revised plan to the Department within 14 days after receiving the Department's notification of disapproval or within 60 days after receiving the Department's notification of noncompliance, whichever is earlier.

Similarly, the Department must either approve or disapprove the revised plan within 14 days after receiving the plan or within 60 days after notifying the sponsor of its noncompliance, whichever is earlier. A sponsor may continue to make revisions to a revised plan that was disapproved by the Department until the 60th day after receiving

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<sup>59</sup> R.C. 3314.017, effective until January 1, 2015.

<sup>60</sup> R.C. 3314.017, as amended by H.B. 555 of the 129th General Assembly, effective January 1, 2015.

<sup>61</sup> R.C. 3314.015(B)(1).

<sup>62</sup> R.C. 3314.015(F).



its notification of noncompliance. If a plan or a revised plan is approved by the Department, the sponsor must implement the plan within 30 days after the plan's approval or 60 days after receiving the noncompliance notification, whichever is later.

If the sponsor does not respond to the Department or implement an approved compliance plan by the deadlines described above, or if a sponsor does not receive approval of a compliance plan within 60 days after receiving its noncompliance notification, the Department (1) must declare to the sponsor that it is in probationary status, and (2) may limit the sponsor's ability to sponsor additional schools.

If a sponsor is placed on probationary status, it may apply to the Department for that status to be lifted by submitting to the Department an application including evidence of the sponsor's compliance with applicable laws and rules. Within 14 days of receiving an application, the Department must decide whether or not to lift a sponsor's probationary status.

### **Application to conversion schools**

The act adds a provision stating that Department's authority to approve, disapprove, revoke, or limit the approval of an entity's sponsorship of community schools applies to *both* start-up community schools *and* conversion community schools.<sup>63</sup>

### **Direct authorization applications**

(R.C. 3314.029)

Under the "Ohio School Sponsorship Program," the Department of Education may directly authorize the establishment and operation of a limited number of community schools, instead of those schools being under the oversight of other public or private sponsors. Any individual, group, or entity may apply directly to the Department for authorization to establish a new community school. In addition, the governing authority of an existing community school may apply to the Department, upon the expiration or termination of the current contract with its sponsor, for direct authorization to continue operating the school.

Continuing law allows the Department to deny an application submitted by an existing community school if a previous sponsor of that school chose not to renew its contract with the school. The act also authorizes the Department to deny an application if the school's sponsor *terminated* that contract.

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<sup>63</sup> R.C. 3314.015(H).

## **Tuition for out-of-state students**

(R.C. 3314.06 and 3314.08)

The act allows community schools to admit students who are at least five, but less than twenty-two years old and who are *not* residents of the state, and to charge those students tuition. The act specifies that a community school may not receive funds from the state to pay for these students.

## **Grandfathered community school sponsors**

(R.C. 3314.027)

The act revises the law regarding grandfathered community school sponsors not subject to approval by the Department. (These are entities that were sponsoring schools as of April 8, 2003, when the approval requirement became law.) Specifically, it removes the language of prior law that stated that a sponsor (1) may continue sponsoring a school "as long as the entity complies with all other sponsorship provisions of this chapter" (meaning R.C. Chapter 3314.), and (2) "need not be approved by the Department for such sponsorship, as otherwise required under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code." The act leaves intact language permitting an entity to enter into new sponsor contracts and to continue existing ones as long as both the contracts and the sponsoring entity comply "with all other provisions" of Chapter 3314.

## **Community school closure criteria – grade 4-8 schools**

(R.C. 3314.35)

Under prior law, partially changed by the act, beginning with the 2013-2014 school year, a community school that offers any of grades 4 to 8 and does not offer a grade higher than 9 was required to permanently close if it met any of the following conditions for two of the three most recent school years: (1) the school received a rating of "academic emergency" (under the former school district and school rating system), (2) the school received an "F" for the performance index score and for the overall value-added progress dimension, or (3) the school received an overall grade of "F" and an "F" for the overall value-added progress dimension.<sup>64</sup> (The latter two conditions refer to the new rating system enacted in 2012.<sup>65</sup>)

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<sup>64</sup> R.C. 3314.35(A)(3)(b).

<sup>65</sup> H.B. 555 of the 129th General Assembly, effective March 22, 2013.



The act revises only the first condition for closure by specifying that, to trigger permanent closure after July 1, 2013, the school must have been both, (1) in a state of academic emergency and (2) showed less than one standard year of academic growth in either reading or mathematics, as determined by the Department. The act leaves intact the other two conditions.

## **E-school enrollment caps**

(R.C. 3314.20)

Beginning with the 2014-2015 school year, the act limits the percentage by which an Internet- or computer-based community school (e-school) may increase its enrollment. An e-school may increase its enrollment by a prescribed annual rate of growth above its enrollment limit for the previous school year. The prescribed annual rate of growth for an e-school with an enrollment limit equal to or greater than 3,000 students is 15%. The prescribed annual rate of growth for an e-school with an enrollment limit less than 3,000 students is 25%.

Accordingly, an e-school's prescribed rate of growth is based on the enrollment limit of the e-school, not on the actual enrollment of the e-school. The Department of Education must calculate the enrollment limit for each e-school. For an e-school that existed prior to September 29, 2013 (the act's 90-day effective date), the enrollment limit for the 2014-2015 school year is the prescribed annual rate of growth above the school's actual 2012-2013 enrollment. For the 2015-2016 school year and each school year thereafter, the enrollment limit for an existing e-school is the previous year's enrollment limit increased by the prescribed annual rate of growth (15% or 25%), as calculated by the Department.

The act also limits the first-year enrollment of a new e-school that opens after September 29, 2013, to 1,000 students. Thus, in its second year of operation, an e-school that opens after that date would have an enrollment limit of 1,250 students (1,000 students increased by 25%). The e-school's enrollment limit would increase by 25% annually until that enrollment limit equaled or exceeded 3,000 students. Thereafter, the enrollment limit would increase by 15% annually.

If an e-school enrolls more students than permitted under the enrollment limit for a school year, the Department must determine and deduct the amount of state funds credited to the school attributable to each student enrolled in excess of the enrollment limit. The Department must distribute that amount to the school districts to which the students enrolled in the e-school are entitled to attend school on a pro rata basis according to each district's share of the total enrollment in the e-school.



## **Dropout prevention and recovery program report cards**

### **Ratings**

(R.C. 3314.017(D)(3))

Under law enacted in 2012, beginning with the 2012-2013 school year, community schools that primarily serve students enrolled in dropout prevention and recovery programs are graded under a separate academic performance rating system. That new system is different from the other new rating system applied to other types of public schools. But like the larger system for other schools, it is phased in over three years so that schools will not receive an overall grade until the report card issued for the 2014-2015 school year. Beginning with that school year, each dropout program will receive a grade based on the following four performance indicators: (1) adjusted cohort graduation rates, (2) percentage of twelfth-grade students and other students passing the graduation assessments, (3) annual measurable objectives, and (4) growth in student achievement in reading or mathematics, or both. The overall ratings will be "exceeds standards," "meets standards," and "does not meet standards," instead of letter grades as assigned to other public schools.

The act includes the rating of "exceeds standards," in addition to "meets standards" under continuing law, as a rating a dropout program can attain if the program improves by 10% both in its graduation rates and percentage of twelfth-grade students and other students passing the graduation assessments.

### **Review of performance indicators**

(R.C. 3314.017(G))

The act also requires the State Board, not later than December 31, 2014, to review the performance levels and benchmarks for the performance indicators used in the report card issued for community schools that primarily serve students enrolled in dropout prevention and recovery programs. The State Board may revise the performance levels and benchmarks based on data collected in developing the rating and report card system.

### **Community school contract suspension**

(R.C. 3314.072)

Continuing law requires the sponsor of a community school to suspend immediately the operation of the school for health and safety violations, and permits a sponsor to suspend the school's operation for (1) failure to meet student performance requirements and fiscal management standards, (2) violation of the contract or



applicable state or federal law, and (3) "other good cause."<sup>66</sup> The act specifies that, beginning with the 2013-2014 school year, a suspended community school's contract is void, if the school's governing authority fails to provide the sponsor with a satisfactory proposal to remedy issues for which it was suspended by September 30 of the following school year. In other words, the school has until the following September 30 to remedy the issues or it will be permanently closed. Additionally, for a community school that has been suspended by its sponsor prior to September 29, 2013, the school's governing authority must provide, by September 30, 2014, a proposal to remedy the issues for which the school's contract was suspended. If the governing authority fails to do so, the school's contract is void, and the school must permanently close.

### **Licensing of physical education instructors at community schools**

(R.C. 3314.03(A)(10))

Under prior law, any classroom teacher who is initially hired by a community school on or after July 1, 2013, to provide instruction in physical education at that school had to hold a valid license, issued by the State Board of Education, for teaching physical education. The act eliminates this specific requirement for physical education instructors at community schools. Nevertheless, under continuing law, a community school's classroom teachers are required to hold a valid educator license or permit for teaching in public schools issued by the State Board. Therefore, a classroom teacher that is hired to provide physical education instruction at a community school must be so licensed, but there is no longer a requirement that the license be issued specifically for the teaching of physical education.

The act does not affect a separate requirement of continuing law regarding physical education instructors employed by school districts, who are still required, if hired on or after July 1, 2013, to be licensed by the State Board for the teaching of physical education.<sup>67</sup>

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<sup>66</sup> R.C. 3314.07, not in the act, and 3314.072.

<sup>67</sup> R.C. 3319.076, not in the act.



### III. Minimum School Year

#### School year based on hours rather than days

(R.C. 2151.011, 3313.48, 3313.481, 3313.482, 3313.533, 3313.62, 3313.88, 3314.092, 3317.01, 3317.03, 3321.05, 3326.11, and 3327.01; Sections 110.10 to 110.12, 120.10 to 120.12, 733.10, 803.50, 812.10, and 812.20)

Beginning in the 2014-2015 school year, the act changes the minimum school year for school districts, STEM schools, and chartered nonpublic schools from 182 days to 455 hours for students in half-day kindergarten, 910 hours for students in grades 1 through 6 or in all-day kindergarten, and 1,001 hours for students in grades 7 through 12.<sup>68</sup> The act does not revise the minimum school year for community schools, which is 920 hours.

In addition, the act retains law specifying that the school week generally be five days, but adds an explicit statement that chartered nonpublic schools may be open for instruction with pupils in attendance on any day of the week, including Saturday and Sunday. The act eliminates any requirement for a minimum school month, which is four school weeks under current law,<sup>69</sup> and it eliminates the requirement that a school day be at least five hours long.<sup>70</sup>

Moreover, the act specifies that when the term "school day" is used throughout the Education Code (R.C. Title 33), unless otherwise specified, it is construed to mean the time during a calendar day that a school is open for instruction under the schedule adopted by each particular school district board.<sup>71</sup>

#### Exceptions

Beginning on July 1, 2014, in order to satisfy the act's minimum hourly requirements:

(1) A school may count up to the equivalent of two school days per year when classes are dismissed for individualized parent-teacher conferences and reporting periods.

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<sup>68</sup> R.C. 3313.48(A); Sections 120.10 to 120.12 and 812.10 (all effective July 1, 2014).

<sup>69</sup> Current R.C. 3313.62 (effective until July 1, 2014).

<sup>70</sup> Current R.C. 3313.48 (effective until July 1, 2014).

<sup>71</sup> R.C. 3313.481 as reenacted by the act, effective July 1, 2014.

(2) A school may count up to the equivalent of two school days per year when the schools are closed for teacher professional meetings.

(3) For students in grades K through 6, a school may count morning and afternoon recess periods of not more than 15 minutes each.

(4) Kindergarten students may be further excused for up to the equivalent of three school days, in order to acclimate to school.

(5) Seniors in high school may be excused for up to the equivalent of three school days.<sup>72</sup>

However, unlike law effective until July 1, 2014, a school will no longer be permitted to count any "calamity" days or hours (including two-hour delays or early dismissals) toward its minimum hourly requirement (see "**Calamity days eliminated**" below).

### **Public hearing on school calendar**

(R.C. 3313.48(B), effective July 1, 2014)

Beginning on July 1, 2014, the act requires that, 30 days prior to adopting a school calendar, a district board of education must hold a public hearing on the school calendar. The hearing must address topics that include, but are not limited to, the total number of hours in a school year, length of school day, and beginning and end dates of instruction.

### **Prohibition on the reduction of hours except by resolution**

(R.C. 3313.48(C), effective July 1, 2014)

Beginning on July 1, 2014, the act prohibits a school district from reducing the number of hours that the school is scheduled to be open for instruction from one school year to the next, unless the district board of education approves the reduction by resolution. However, the resolution cannot be used to reduce the number of hours that the school is scheduled to be open for instruction below the minimum number required by law.

This provision does not apply to chartered nonpublic schools (see "**Prohibition on applying requirements to chartered nonpublic schools,**" below).

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<sup>72</sup> R.C. 3313.48(A)(1) to (3) and 3317.01(B) (both effective July 1, 2014).

## **Consideration of scheduling needs of other schools**

### **Joint vocational school districts**

(R.C. 3313.48(D), effective July 1, 2014)

Beginning on July 1, 2014, the act requires the board of each city, exempted village, and local school district, prior to making any change in the hours or days in which a high school is open for instruction, to consider the compatibility of the proposed change with the scheduling needs of any joint vocational school district (JVSD) in which any of the high school's students are also enrolled. The board must consider the impact of the proposed change on student access to the instructional programs offered by the JVSD, incentives for students to participate in vocational education, transportation provisions, and the timing of graduation. The board also must provide the JVSD board with advance notice of the proposed change, and both boards must enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the JVSD prior to implementing the change.

### **Community schools**

(R.C. 3313.48(E) and 3314.092, both effective July 1, 2014)

The act further requires the board of each city, exempted village, and local school district, prior to making any change in the hours or days in which a school is open for instruction, to consider the compatibility of the proposed change with the scheduling needs of any community school to which the district is required to transport students. The board must consider the impact of the proposed change on student access to the instructional programs offered by the community school, transportation provisions, and the timing of graduation. The board also must provide the sponsor, governing authority, and operator of an affected community school with advanced notice of the proposed change, and the district board and the governing authority, or operator if so authorized, must enter into a written agreement prescribing reasonable accommodations to meet the scheduling needs of the community school prior to implementing the change.

Conversely, the act also requires the governing authority or operator of a community school to consult with each district that transports students to the community school prior to making any change in the community school schedule.

## **Chartered nonpublic schools**

(R.C. 3313.48(F), effective July 1, 2014)

Finally, the act requires the board of education of each city, exempted village, and local school district, before making a change in the hours or days in which its schools are open for instruction, to consult with the chartered nonpublic schools to which the district is required to transport students and to consider the effect of the proposed change on the schedule for transportation of those students. Conversely, the governing authority of a chartered nonpublic school must also consult with each school district board that transports students to the chartered nonpublic school prior to making any change in its schedule.

## **Prohibition on applying requirements to chartered nonpublic schools**

(R.C. 3313.48(G), effective July 1, 2014)

The act prohibits the State Board from adopting or enforcing any rule or standard that would require chartered nonpublic schools to comply with the act's provisions that, beginning on July 1, 2014, require school districts to do the following:

- (1) Hold a public hearing prior to adopting the school calendar;
- (2) Adopt a resolution before reducing the number of hours the school is scheduled to be open; and
- (3) Consult with any joint vocational school district or community school when amending its school schedule.

## **Transportation to nonpublic and community schools**

(R.C. 3327.01(D)(2), effective July 1, 2014)

As discussed above, the act makes explicit that, beginning on July 1, 2014, chartered nonpublic schools may be open for instruction with pupils in attendance on any day of the week, including Saturday or Sunday. However, unless an agreement to do so is in place prior to July 1, 2014, the act exempts school districts from transporting students to and from nonpublic and community schools on Saturday and Sunday.

For a discussion of a district's transportation responsibilities see "**Background**" under "**VI. Student Transportation**," below.



## **Calamity days eliminated**

(R.C. 3317.01(B), effective July 1, 2014)

A school is permitted under law effective until July 1, 2014, to excuse students for up to five days a year for calamity days, which are regularly scheduled hours a school is closed due to hazardous weather or comparable circumstances. Beginning on July 1, 2014, the act generally eliminates excused calamity days, and eliminates another provision that permits a school to count up to two hours a day if a school opens late or closes early because of hazardous weather conditions. Thus, under the act, if a school is required to cancel classes, open late, or close early because of inclement weather, and the closure would cause the school to fall below the state minimum hours for the year, it is the responsibility of the school to make up those hours as it chooses.

## **Community school calamity hours retained**

(R.C. 3314.08(H)(4))

However, the act does not affect a provision which excuses calamity days for community schools. Currently, and continuing under the act, the Department is required to waive the number of hours a community school is closed for a public calamity, as long as the school provides the required minimum of 920 hours of learning opportunities to students during the school year.

## **Online lessons and Blizzard Bags**

(R.C. 3313.482, as renumbered by Section 110.10 of the act, effective July 1, 2014)

The act retains a provision that was enacted in 2011 by H.B. 153 of the 129th General Assembly, which allows school districts, chartered nonpublic schools, and community schools to make up no more than three calamity days via online lesson plans or paper "Blizzard Bags." However, the act clarifies that, following the implementation of the hours-based minimum school year on July 1, 2014, districts and schools may make up the *equivalent* of three days using these methods.

## **Other changes related to the minimum school year**

(Repealed R.C. 3313.481 and 3313.482)

Beginning on July 1, 2014, the act makes other changes as a result of shifting the minimum school year requirement from days to hours. First, it eliminates the provisions of law that currently permit a school, under certain conditions, to operate on an alternative 910-hour schedule upon the approval of the Department. Also, since calamity days will be eliminated on this date, the act also eliminates the requirement



that schools adopt contingency plans to make up calamity days beyond the five they are permitted under law effective until July 1, 2014.

## **Collective bargaining agreements**

(Section 803.50)

The act specifically provides that the restructuring of the minimum school year on July 1, 2014, does not apply to any collective bargaining agreement executed prior to that date. However, the act does stipulate that any collective bargaining agreement or renewal executed after that date must comply with those changes.

## **IV. Scholarship Programs**

### **Educational Choice Scholarship Program**

#### **Qualification based on K-3 literacy performance**

(R.C. 3310.02 and 3310.03)

Beginning with the 2016-2017 school year, the act qualifies for the Educational Choice Scholarship Program (Ed Choice) students in kindergarten through third grade who are enrolled in a district-operated school that (1) has received a grade of "D" or "F" in "making progress in improving K-3 literacy" in two of the three most recent state report cards issued prior to the first day of July of the school year for which the scholarship is sought and (2) has *not* received a grade of "A" on that same measure on the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.<sup>73</sup> A student who receives a scholarship under the act continues to be eligible for the scholarship so long as the student remains in a qualifying district, takes state achievement assessments that applied to the student's grade level, and does not have had more than 20 unexcused absences, all in the previous school year.

Scholarships based solely on a school's K-3 literacy performance are to be counted toward the total 60,000 scholarship cap that applies to the rest of the Ed Choice program except the act's new income-based eligibility. (See "**Priority for Ed Choice scholarships**," below.)

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<sup>73</sup> This is one of the measures used on the new report card system enacted by H.B. 555 of the 129th General Assembly.

## **Priority for Ed Choice scholarships**

(R.C. 3310.02)

Students eligible under the new K-3 literacy performance category are included in the overall priority list in the event that the number of applicants exceeds the overall cap. Thus, in years when applications exceed the total number of available scholarships, priority for awarding scholarships is as follows:

First, to eligible students who received them in the previous school year (continuing law);

Second, to students eligible because of the performance rating or grade of their district building *and* whose family incomes are at or below 200% of the federal poverty guidelines (continuing law);

Third, to all other students eligible because of the performance rating or grade of their district building (continuing law);

Fourth, to students in kindergarten through third grade who are eligible because of the K-3 literacy grade of their district building *and* whose family incomes are at or below 200% of the federal poverty guidelines (added by the act);

Fifth, to all other students in kindergarten through third grade who are eligible because of the K-3 literacy grade of their district building (added by the act);

Sixth, to students who are eligible because of the performance index score ranking of their district building *and* whose family incomes are at or below 200% of the federal poverty guidelines; and

Finally, to all other students who are eligible because of the performance index score ranking of their district building.

If the number of applicants in any of the categories listed above exceeds the amount of available scholarships, scholarships must be awarded on the basis of a lottery.

## **Income-based eligibility**

(R.C. 3310.032; Sections 263.10 and 263.320; conforming changes in R.C. 3310.01, 3310.02, 3310.05, 3310.06, 3310.08, and 3317.03)

Beginning with the 2013-2014 school year, the act expands the Ed Choice Scholarship Program to qualify certain students based entirely on their family incomes.



Under the act, students whose family incomes are at or below 200% of the federal poverty guidelines, regardless of the academic rating of the district school they otherwise would attend, may qualify for Ed Choice. However, the act phases in scholarships for students from low-income families by qualifying only kindergartners for the scholarship in the 2013-2014 school year, with the next grade higher than the preceding year added in each subsequent year. A student receiving a first-time scholarship under the new income-based criteria may continue to receive a scholarship in subsequent school years through grade 12, even if the student's family income rises above 200%, but does not exceed 400%, of the federal poverty guidelines provided the student remains enrolled in a chartered nonpublic school. For a student whose family income rises above 200% of the federal poverty guidelines after initially qualifying under the expansion, the act prescribes a three-tiered system under which the student's scholarship will be reduced. However, if the student's family income rises above 400% of the federal poverty guidelines after initially qualifying, the student will no longer be eligible for a scholarship (see "**Scholarship reductions if family income rises**" below).

All students who are newly qualified under the act must have taken all state achievement assessments that applied to the student's grade level, and cannot have had more than 20 unexcused absences, in the previous school year.

Scholarships awarded to students under this provision are to be funded directly through an appropriation made by the General Assembly, rather than through deductions from their resident school districts' state education aid as in the case of all other Ed Choice scholarships under continuing law. For fiscal years 2014 and 2015, the act finances the new income-based scholarships from the Lottery Profits Education Fund. For fiscal year 2014, the amount appropriated is \$8.5 million and, for fiscal year 2015, it is \$17 million.

### **Priorities**

(R.C. 3310.032(D))

If applications for the new income-based scholarships exceed the number of scholarships that can be funded by the appropriation, the act prioritizes the awarding of scholarships as follows:

First, to students who received scholarships in the previous school year;

Second, to students with family incomes at or below 100% of the federal poverty guidelines; and

Third, to students with family incomes between 100% and 200% of the federal poverty guidelines.



If the number of applications for students assigned lower priority exceeds the number of scholarships remaining available, the Department must award the remaining scholarships by lot.

Scholarships based solely on income eligibility are *not* to be counted toward the total 60,000 scholarship cap that applies to the rest of the Ed Choice program under continuing law.

#### **Scholarship reductions if family income rises**

(R.C. 3310.032(E))

The act prescribes a tiered system for reducing scholarship amounts if an eligible student's family income rises above 200% of the federal poverty guidelines, as follows:

(1) If the student's family income is above 200% but at or below 300% of the federal poverty guidelines, the student's scholarship is 75% of the full scholarship amount;

(2) If the student's family income is above 300% but at or below 400% of the federal poverty guidelines, the student's scholarship is 50% of the full scholarship amount; and

(3) If the student's family income is above 400% of the federal poverty guidelines, the student is no longer eligible to receive a scholarship.

#### **Eligibility based on performance index score ranking**

(R.C. 3310.03(B))

As noted under "**Background**" below, continuing law qualifies students for Ed Choice scholarships if their district schools have been ranked in the lowest 10% of school buildings based on performance index score for at least two out of three years and have not been rated "excellent" or "effective" in the most recent report card ratings. The act specifies that such a qualifying student's building not be rated, in that most recent report card, as excellent or effective "or the equivalent of such ratings as determined by the Department of Education." This change appears to accommodate the new report card and rating system based on letter grades. Also that new system does not provide for any overall score until the report card issued for the 2014-2015 school year. Thus, a determination of an "equivalent" rating may be necessary to administer that component of the program.

## **Students who qualify under more than one category**

(R.C. 3310.032 and 3310.035)

The act specifies that if a student is eligible for the Ed Choice scholarship based on both the student's public school performance and the act's new income-based expansion, the student, applying for the scholarship for the first time, must receive the scholarship based on public school performance and not family income.

Once a student receives an Ed Choice scholarship, the student will continue to receive the scholarship under the provision for which the student received the scholarship in the previous year so long as that student continues to meet the requirements for the scholarship. Thus, if a student qualified for the first time for the Ed Choice scholarship under the expansion based on family income, received a scholarship under that provision, and then subsequently became eligible to receive a scholarship based on where the student attends, the student will continue to receive the scholarship under the family income expansion, and that scholarship will be funded accordingly, assuming the student's family income does not rise above prescribed levels (see "**Scholarship reductions if family income rises**" above).

## **Eligibility for homeschooled students and students transferring to Ohio**

(R.C. 3310.03)

The act expands the eligibility provisions for the Ed Choice scholarship to qualify a student who "will be enrolling in any of grades kindergarten through twelve in this state for the first time" in the school year for which the scholarship is sought and whose school district or school building that the student would otherwise attend qualifies for scholarships. This includes the act's new qualification beginning in the 2016-2017 school year for students in buildings with a grade of "D" or "F" on the K-3 literacy performance measure. Prior law specified that the student had to be "eligible to enroll in kindergarten" to qualify under the relevant eligibility provision. Therefore, under the act, students moving to Ohio from another state and students who were previously homeschooled, regardless of their grade level, will be eligible for scholarships, in addition to the incoming kindergarteners who are eligible under continuing law.

The act also revises the minimum eligibility age for students that would qualify for Ed Choice. In addition to the enrollment revisions described above, the act specifies that a student must be at least five years of age by January 1 of the school year for which the scholarship is sought. Prior law specified the student had to be "eligible to enroll in kindergarten" to qualify under the relevant eligibility provision.



## Background

The Educational Choice Scholarship Program operates statewide in every school district except Cleveland to provide scholarships for students who are assigned or would be assigned to district schools that have persistently low academic achievement or, as under the act, are from low-income families. Under the program, students may use their scholarships to enroll in participating chartered nonpublic schools.

In addition to the act's K-3 literacy qualification or the act's income-based qualification, under continuing law, a student is eligible for a first-time Ed Choice scholarship if the student was attending, or otherwise would have been assigned to, a school building operated by the student's resident district that, on two of the three most recent report cards, either:

(1) Received a combination of any of the following ratings:

(a) Academic watch or emergency, under the former rating system;

(b) A "D" or "F" for *both* the performance index score *and* the overall value-added progress dimension or if the building serves only grades 10 through 12, the building received a grade of "D" or "F" for the performance index score and had a four-year adjusted cohort-graduation rate of less than 75%. (Applies only for report cards issued for the 2012-2013 and 2013-2014 school year.)

(c) A "D" or "F" for the overall grade *or* "F" for the overall value-added progress dimension. (Applies for report cards issued for the 2014-2015 school year and thereafter.); or<sup>74</sup>

(2) Was ranked in the lowest 10% of all public school buildings according to performance index score.

In the case of eligibility based on school performance ratings, the school cannot have been rated any of the following on the most recent report card:

(1) Excellent or effective, under the former rating system;

(2) Received an "A" or "B" for the performance index score *and* the value-added progress dimension or, if a building serves only grades 10 through 12, the building received a grade of "A" or "B" for the performance index score and had a four-year

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<sup>74</sup> H.B. 555 of the 129th General Assembly, effective March 22, 2013, created a new school district and school rating system using A through F letter grades and 15 separate performance measures.

adjusted cohort graduation rate of 75% or higher. (Applies only for report cards issued for the 2012- 2013 and 2013-2014 school years.);

(3) An "A" or "B" for the overall grade *or* "A" for the value-added progress dimension *or*, if a building serves only grades 10 through 12, the building received a grade of "A" or "B" for the performance index score and had a four-year adjusted cohort graduation rate of 75% or higher. (Applies for report cards issued for the 2014-2015 school year and thereafter.)

In the case of students who qualify because their school was in the bottom 10% of performance index ratings, the school cannot have been rated excellent or effective (or the equivalent as under the act) on the most recent report card.

The amount of each annual Ed Choice scholarship is the lesser of (1) the tuition charged by the chartered nonpublic school in which the student is enrolled or (2) a "maximum" amount, which is:

(a) \$4,250 for grades K through 8; and

(b) \$5,000 for grades 9 through 12.

### **Pilot Project (Cleveland) Scholarship Program**

(R.C. 3313.978)

The act increases the maximum amount allowed for any student in grades 9 through 12 under the Pilot Project (Cleveland) Scholarship Program from \$5,000 to \$5,700 beginning in fiscal year 2014. The act does not increase the maximum amount for students in grades K-8 (\$4,250), nor does it appropriate or earmark additional funds to finance the increased maximum high school scholarship amount.<sup>75</sup>

### **Background**

The Pilot Project Scholarship Pilot Program provides scholarships to attend alternative schools, including private schools, and tutorial assistance grants to certain students who reside in any school district that is or has been under a federal court order requiring supervision and operational management of the district by the Superintendent. Currently, only the Cleveland Municipal School District meets this criterion. The program has been authorized since 1995. It is financed partially with state funds and partially with an earmark of Cleveland's state payments.

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<sup>75</sup> The act does not affect the maximum amount of a tutorial assistance grant under the program, which is \$400.



## **Jon Peterson Special Needs Scholarship Program**

### **Payments for certain students**

(Sections 263.10 and 263.250)

The act requires the Department to reimburse school districts in fiscal year 2014 for the full amount deducted from their state education payments under the Jon Peterson Special Needs Scholarship Program for scholarships for students who did not attend a public school in their resident district in the previous school year. The act appropriates \$5 million from the General Revenue Fund for this purpose. If this amount is not sufficient, the Department must prorate the payment amounts.

### **Restriction on use of scholarship money**

(R.C. 3310.52)

Beginning with the 2014-2015 school year, the act requires that a scholarship received by an eligible applicant for the Jon Peterson Special Needs Scholarship Program for a child who is a "category one" special education student may only be used to pay for "related services" that are included in the child's IEP. Under the act, a category one special education student is a child who is receiving special education services and whose primary or only identified disability is a speech and language disability.<sup>76</sup> Under Ohio law, unchanged by the act, and federal law, "related services" include transportation and support services, such as speech-language pathology and audiology services, psychological services, physical and occupational therapy, counseling services, and diagnostic medical services.<sup>77</sup>

### **Formative evaluation**

(Sections 125.11.10 and 263.440)

The act requires the Department of Education to conduct for the 2014-2015 school year a formative evaluation of the Jon Peterson Special Needs Scholarship Program and to report its findings to the General Assembly by December 31, 2015. In conducting the evaluation, to the extent possible, the Department must gather comments from parents who have been awarded scholarships under the program, school district officials, representatives of registered private providers, educators, and representatives of educational organizations for inclusion in the report. The act also specifies that the Department may contract with one or more qualified researchers who have previous

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<sup>76</sup> R.C. 3310.56(B)(1) and 3317.013(A).

<sup>77</sup> R.C. 3323.01(K) (not in the act) and 20 U.S.C. 1401(26).



experience evaluating school choice programs to conduct the study. In addition, it specifies that the Department may accept grants to assist in funding the study.<sup>78</sup>

## **Background**

The Jon Peterson Special Needs Scholarship Program provides scholarships for children with disabilities to attend special education programs other than those offered by their school districts. The program applies to any identified disabled child in grades kindergarten through 12. It began operating in the 2012-2013 school year. A scholarship may be used to pay the expenses of a public or private provider of special education programs for implementation of the child's individualized education program (IEP) and other services associated with educating the child.<sup>79</sup>

## **Autism Scholarship Program; instructional assistant permit**

(Sections 605.23 and 605.24)

The act revises a temporary provision of law enacted in 2012<sup>80</sup> to specify that individuals who provide services to a child under the Autism Scholarship Program are not required to obtain a one-year, renewable instructional assistant permit until December 20, 2014 (rather than December 20, 2013 under prior law). Continuing law permits the State Board to issue an instructional assistant permit to an individual, upon the request of a registered private provider,<sup>81</sup> qualifying that individual to provide services to a child under the program.<sup>82</sup>

## **Background**

The Autism Scholarship Program pays scholarships to the parents of identified autistic children in grades pre-kindergarten to 12. The scholarship is to be used solely to pay all or part of the cost of sending the child to a public or an approved nonpublic special education program instead of the one provided by the child's resident school

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<sup>78</sup> The act's provision is similar, but not identical, to one enacted in 2011 at the time the scholarship program was authorized. That prior provision, which had required the Department's report by December 31, 2014, is repealed by the act.

<sup>79</sup> R.C. 3310.52.

<sup>80</sup> Section 4 of Am. Sub. H.B. 279 of the 129th General Assembly.

<sup>81</sup> Continuing law defines a registered private provider as a nonpublic school or other nonpublic entity that has been approved by the Department to participate in the program (R.C. 3310.41(A), not in the act).

<sup>82</sup> R.C. 3310.43, not in the act.



district. The scholarship amount is the lesser of the amount charged by the special education program or \$20,000.

### **State assessments in nonpublic schools**

(R.C. 3301.0711(K), 3301.16, 3310.14, 3310.522, and 3313.976)

Continuing law requires a nonpublic school to administer the state assessments to each student attending the school with a scholarship under a state scholarship program.<sup>83</sup> All chartered nonpublic high schools, regardless of whether they accept state scholarships, must administer the Ohio Graduation Test (OGT) and all their students, generally, must pass all five areas of the test to be eligible for their diplomas.<sup>84</sup> (The OGT is scheduled to be replaced by a college and work ready assessment system consisting of a national standardized test and prescribed end-of-course examinations.)<sup>85</sup>

The act requires a chartered nonpublic school to administer the applicable state achievement assessments to *all* of its students if at least 65% of its total enrollment is made up of students who are participating in any of the state scholarship programs. However, the parent or guardian of a student enrolled in the chartered nonpublic school who is not participating in a state scholarship program may submit notice to opt the student out of the elementary assessments. The parent or guardian must submit notice of such to the chief administrative officer of the school in accordance with procedures and deadlines set by the Department of Education. If a parent or guardian does so, the school may not administer the assessment to that student. The opt-out does not apply to any assessment required for a high school diploma under continuing law.

The act also maintains continuing law by specifying that each chartered nonpublic school that (1) has a total enrollment in which *less than* 65% of students participate in the scholarship programs, and (2) educates students in ninth through twelfth grades, *must* continue to administer the OGT and the replacement assessments and *may* elect to administer the elementary state assessments.

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<sup>83</sup> R.C. 3310.14, 3310.522, and 3313.976. These statutes apply that requirement to scholarship students under the Ed Choice Scholarship Program, Jon Peterson Special Needs Scholarship Program, and Cleveland Scholarship Program. The requirement applies to students participating in the Autism Scholarship Program by rule of the State Board (O.A.C. 3301-103-04(C)).

<sup>84</sup> R.C. 3313.612. Under specified conditions, a student may be awarded a diploma even if the student passes only four of the five areas of the OGT (R.C. 3313.615).

<sup>85</sup> Elsewhere, the act exempts students enrolled in certain chartered nonpublic schools from the end-of-course examination provision but not from the requirement to pass the national standardized test (R.C. 3313.612(B)).



## V. State Board Standards and Reporting

### School district and school minimum operating standards

(R.C. 3301.07(D))

Continuing law requires the State Board to formulate and prescribe minimum standards to be applied to all elementary and secondary schools. The act revises the statutory specifications for those minimum standards. First, it states that the minimum standards are intended for the purpose of *providing children access to* a general education of high quality, rather than *requiring* that education as stated in prior law. It also specifies that, in providing children access to "a general education of high quality," the standards must be prescribed according to the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient students, and gifted students.

The act also makes all of the following changes regarding the content of the minimum operating standards:

(1) Adds a requirement that any standards governing the assignment of staff must be based on ensuring each school has a sufficient number of teachers to ensure a student has an appropriate level of interaction to meet each student's personal learning goals;

(2) Removes a prior law requirement that the standards for instructional materials and equipment, including library facilities, be aligned with and promote skills expected under the statewide academic standards;

(3) Adds a specification that the standards must provide for *the provision of safe* buildings, grounds, health and sanitary facilities and services;

(4) Revises continuing statutory language regarding school organizational standards (permitted but not required of the State Board) to express a "commitment to high expectations for every student" based on the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient students, and gifted students, and that the "commitment to closing the achievement gap" must be done without suppressing the achievement levels of higher achieving students;

(5) Adds standards for promotion and graduation based on the ability of students, at any grade level, to earn credits or advance upon demonstration of mastery of knowledge and skills through competency-based learning models and specifies that



credits of grade level advancement must not require a minimum number of days or hours in a classroom; and

(6) Removes descriptive language of a prior law provision regarding permissive school standards for the effective and efficient organization, administration, and supervision of each school district and school district building.

### **Financial reporting requirements for schools**

(R.C. 3301.07(B), 3314.042, 3317.01, 3326.112, and 3328.27)

Under prior law, the statutory specifications for the State Board financial reporting standards required that certain categories of financial information be shown at *either* the school district *or* the school building level. The specific categories that the format was required to show included (1) revenue by source, (2) expenditures for salaries, wages, and benefits of employees, showing such amounts separately for specified employees, (3) expenditures other than for personnel, by category, and (4) per pupil expenditures.

The act revises the statutory specifications for these financial reporting standards. First, the act requires that such financial information must be shown at *both* the district and school building level. Second, the format must show all of the categories listed above, in addition to (1) total revenue and expenditures, (2) per pupil revenue, and (3) expenditures for both (a) classroom and nonclassroom purposes and (b) the aggregate and each subgroup of students that receives services provided for by state or federal funding. (See also "**Accountability for subgroups**" under "**I. School Financing**" above.)

In addition, the act requires each governing authority of a community school, governing body of a STEM school, or board of trustees of a college-preparatory boarding school, or its respective designee, to report annually to the Department financial information in accordance with the State Board's standards in the same manner as in required for school districts and their boards under continuing law.

Finally, the act specifies that the Department must post district and school financial information in a prominent location on its web site and notify each school when the reports are made available. The act also specifies that the Department must make these reports available in such a way that allows for comparison between financial information included in these reports and financial information included in reports that were produced prior to July 1, 2013.

## **Performance management information**

(R.C. 3302.26)

The act requires the Department to create a performance management section on its web site. This section must include all of the following:

(1) Information on academic and financial performance metrics for each school district to assist schools and districts in providing an effective and efficient delivery of educational services;

(2) A graph that illustrates the relationship between a district's academic performance, as measured by performance index score, and its "expenditure per equivalent pupils" as compared to similar districts. The act defines a district's expenditure per equivalent pupils as the total operating expenditures of a school district divided by the measure of "equivalent pupils" (which is the total number of students in a school district adjusted for the relative differences in costs associated with the unique characteristics and needs of each pupil category).

(3) Each district's total operating expenditures per pupil; and

(4) Statistics of academic and financial performance measures for each school district to allow for a comparison and benchmarking between districts.

The act permits the Department to contract with an independent organization to develop and host the performance management section of its web site.

## **Reporting and ranking of school operating expenditures**

(R.C. 3302.20 and 3302.21)

### **Reporting of operating expenditures**

Under continuing law, the Department of Education is required to compute and to post on the Department's web site the following information regarding school districts, joint vocational school districts, community schools, and STEM schools: (1) the percentage of each district's or school's total operating budget spent for classroom instructional purposes, (2) the statewide average percentage for all districts and schools combined spent for classroom instructional purposes, (3) the average percentage for each category of districts and schools spent for classroom instructional purposes, and (4) the ranking of each district or school within its respective category for both the percentage spent for classroom instructional purposes and the percentage spent for noninstructional purposes.

The act maintains this requirement, but it also adds two additional measures for the Department to compute and post: (1) the total operating expenditures per pupil for each district or school, and (2) the total operating expenditure per equivalent pupils for each district or school. (For the act's definition of "expenditure per equivalent pupils," see "**Performance management information**" above).

The Department is also required to include both of these measures in the Department's new performance management section on its web site (also see "**Performance management information**" above).

### **Ranking of operating expenditures**

Continuing law requires the Department to develop a system to rank order each type of school district and public school based on both operating expenditures and report card scores, and to post these rankings on the Department's web site. The types of public schools to be ranked are divided into the following categories: (1) city, exempted village, and local school districts, (2) joint vocational school districts, (3) community schools that are not Internet- or computer-based, (4) community schools that are Internet- or computer-based, and (5) STEM schools.

The act requires the Department to continue to rank order each type of district or school by report card scores, but it modifies the measure to be used for the ranking of operating expenditures from "expenditures per pupils" to "expenditure per equivalent pupils." By modifying this measure, the act requires the "operating expenditures per pupil" measure only to be *reported*, rather than reported and ranked, while the "operating expenditure per equivalent pupil" measure is *reported and ranked*.

## **VI. Student Transportation**

### **Background on student transportation responsibilities**

State law generally requires each city, exempted village, and local school district to transport to and from school any student in grades K to 8 who resides in the district and is enrolled in a school that is more than two miles from the student's home. A district is required to transport resident students attending the district's own schools, as well as those attending nonpublic schools and community schools. A district may choose to transport students it is not required to transport, including high school students. If a district opts to transport high school students, it appears that the district must offer that service to nonpublic and community school students as well as those attending its own schools. Still, a district need not transport any private or community school student for whom the direct travel time is more than 30 minutes.<sup>86</sup> A district also

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<sup>86</sup> R.C. 3327.01.

must transport STEM school students, unless the school's proposal as approved by the STEM committee provides for transportation.<sup>87</sup> A district may offer a payment in lieu of providing transportation to the parent of a student it is required to transport, upon a finding that it is impractical to transport that student.<sup>88</sup>

## **Payment in lieu**

(R.C. 3327.02; Section 263.170)

The act maintains the provisions for a payment in lieu of transportation to a student's parent, but changes the minimum amount for such a payment. Under prior law, the minimum amount for such a payment was an "amount determined by the Department of Education." Under the act, effective July 1, 2014, the minimum amount for such a payment is an "amount to be determined by the General Assembly." For fiscal years 2014 and 2015, the act specifies that the minimum amount for a payment in lieu of transportation is \$250.

The act maintains continuing law regarding the maximum amount for a payment in lieu of transportation, which is the average cost of pupil transportation for the previous school year, as determined by the Department.

## **Fee for transportation charged by chartered nonpublic schools**

(R.C. 3327.07)

Effective July 1, 2014, the act expressly permits a chartered nonpublic school to charge a fee for transportation, regardless of whether the student is eligible for transportation by a school district, if the chartered nonpublic school's governing authority purchased the vehicle transporting the student using without state or federal funds. This includes permission to charge a fee for transportation to a parent or guardian who chooses to decline transportation services from their child's resident school district and use transportation provided by the chartered nonpublic school instead.

Under the act, a chartered nonpublic school may not charge the parent or guardian of a student a fee that exceeds the per student cost of the transportation, as determined by the governing authority of the chartered nonpublic school.

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<sup>87</sup> R.C. 3326.20, not in the act.

<sup>88</sup> R.C. 3327.01 and 3327.02.



The act states that nothing in its nonpublic school fee-charging provisions relieves school districts from any statutory duty to provide transportation to students enrolled in chartered nonpublic schools under continuing law.

### **Community school responsibility to transport**

(R.C. 3314.091)

Continuing law permits a community school and a school district to enter into a bilateral agreement under which the community school will transport the district's resident students in return for a payment specified in the agreement. It also permits an existing community school to unilaterally assume responsibility for transporting a school district's resident students to and from the school. If it does so, the community school will receive the district's state subsidy amount attributable to those students, which will be deducted from the district's state aid account. To unilaterally assume responsibility, the governing authority of the community school must submit written notification to the school district board of education by January 31 of the preceding school year.

Beginning July 1, 2014, the act allows the governing authority of a community school that is not yet open for operation to assume responsibility for providing or arranging for the transportation of its students (when it opens), if it submits written notification to do so by April 15th of the preceding school year. Once the community school opens for operation, it must comply with the requirements and deadlines under continuing law to renew or relinquish that responsibility.

Under continuing law, a community school's acceptance of the transportation responsibility must cover an entire school year. It remains in effect for subsequent school years unless the community school submits written notification to the school district board of education relinquishing the responsibility. However, the community school cannot relinquish responsibility before the end of a school year and must submit notice of its relinquishment by January 31 of the preceding school year to allow the district reasonable time to prepare transportation for its resident students enrolled in the school. If the community school relinquishes its transportation responsibility, it cannot resume it in a future school year without the consent of the district board of education.

### **Transportation funding data**

(R.C. 3317.0212(H))

The act requires each city, local, and exempted village school district to report all data the district uses to calculate transportation funding to the Education Management



Information System, which is an electronic database of district and school operational, financial, and student data maintained by the Department.

## **VII. Other Education Provisions**

### **Supervisory services by educational service centers**

The act makes the following changes with respect to an educational service center's (ESC) supervisory relationship with school districts:

- Requires each "local" district board to prescribe a curriculum for all schools under its control, and removes this prior requirement for ESCs with respect to "local" districts (R.C. 3313.60).
- Removes a prior requirement that each ESC annually certify the average daily membership (ADM) of students receiving services from schools under the ESC superintendent's supervision (i.e., "local" school districts) (R.C. 3317.03).
- Permits a "local" district superintendent to excuse a child that resides in the district from attendance for any part of the "remainder of the current school year" upon satisfying conditions specified in law and in accordance with district board and State Board rules, and removes this authority for an ESC superintendent acting on behalf of a "local" district (R.C. 3321.04).
- Requires the superintendent of a "local" district in which a child withdraws from school to immediately receive notice of the withdrawal from the child's teacher, and removes this requirement as it applied to ESC superintendents acting on behalf of "local" districts (R.C. 3321.13).
- Permits a city or exempted village district board to obtain services from an ESC attendance officer instead of employing its own attendance officer (R.C. 3321.14).
- Permits, rather than requires as under prior law, every ESC governing board to employ an ESC attendance officer, and requires an ESC to make the decision regarding employment of an attendance officer based on consultation with the districts that have agreements with the ESC (R.C. 3321.15).
- With respect to the salary schedule that any district board participating in the school foundation program must adopt, removes a prior requirement that each "local" district board file a copy of its salary schedule with the



ESC superintendent for certification of the correct salary to be paid to each teacher (R.C. 3317.14).

- Permits a "local" district to provide an instructional program for the employees of the district, in the same manner as authorized for "city" and "exempted village" districts (R.C. 3315.07(A)).
- Specifies that any school district board that has an agreement with an ESC to receive services may authorize the ESC to purchase or accept upon donation supplies and equipment for the district. Prior law specified that a "city" or "exempted village" district could make this authorization, subject to approval by the ESC, and a "local" district could make this authorization without any approval from the ESC (R.C. 3315.07(D)).
- Permits the superintendent of a "local" district to certify the qualifications of the school bus drivers employed or contracted by the district (R.C. 3327.10).
- Requires a "local" district board to appoint a business advisory council, unless the district and an ESC have an agreement providing that the ESC's business advisory council will represent the district (R.C. 3313.82).
- Applies the ESC exception to the requirement to appoint a business advisory council to city and exempted village districts, which are already required to appoint a council under continuing law (R.C. 3313.82).
- For purposes of each ESC appointing the committee for selecting and recommending high school graduates for the Ohio Scholarship Fund for Teacher Trainees, removes the requirement that the high school principal and classroom teacher appointed to the committee be from only a "city" or "exempted village" district, thus permitting the principal or teacher to be from a "local" district as well (R.C. 3315.33).

## **Post-Secondary Enrollment Options Program**

(R.C. 3365.01, 3365.02, 3365.021, 3365.022, 3365.07, and 3365.12; Section 263.190)

### **Background**

The Post-Secondary Enrollment Options Program (PSEO) allows high school students to enroll in nonsectarian college courses on a full- or part-time basis and to receive high school and college credit. Under continuing law, students in public high schools (school districts, community schools, and STEM schools) and nonpublic high



schools (both chartered and nonchartered) are eligible to participate in the program. Additionally, a new provision enacted by the act qualifies homeschooled students for participation in the program (see below). College courses under the program may be taken at any participating state institution of higher education, private nonprofit college or university, or private for-profit educational institution.

PSEO consists of two "options," which the student elects at the time of enrolling in the college course. Under Option A, the student is responsible for payment of all tuition and other costs charged by the higher education institution. Under this option, the student may further elect to receive only college credit for a completed course or to receive both college and high school credit. Under Option B, the student receives both college credit and high school credit for successfully completing a college course, and the state makes a payment to the institution of higher education on the student's behalf.

The state payment to an institution of higher education on behalf of a student under PSEO is made in the fiscal year after the student completes the college course. State payments for students enrolled in public high schools are deducted from the state aid accounts of the students' school districts, community schools, or STEM schools. State payments for students enrolled in nonpublic high schools are paid out of a separate state amount set aside for that purpose, since those schools do not receive operations funding from the state. The amount of the payment for each public or nonpublic secondary student is the lesser of the actual cost of tuition, textbooks, materials, and fees associated with the college course or the full-time equivalent percentage of time the student attends the course multiplied by the "tuition base," which, in a manner similar to prior law, the act defines as the "formula amount" under its school funding formula. Under the act, that amount is \$5,745, for fiscal year 2014, and \$5,800, for fiscal year 2015.

### **Qualification of homeschooled students for participation in PSEO**

(R.C. 3365.01 and 3365.022)

The act qualifies any student who has been excused from Ohio's compulsory school attendance law for the purpose of home instruction, and is considered the academic equivalent of a student in grades 9-12, to participate in the PSEO program.

Additionally, the act specifies that if a homeschooled student wishes to participate in the PSEO program, the student's parent or guardian must notify the Department by April 1 of the prior school year, which is the same deadline applied to nonpublic school students under continuing law. However, for the 2013-2014 school year, the act allows the Department to accept late applications from homeschooled

students who wish to participate during the 2013-2014 school year. For subsequent school years, April 1 will remain the notification deadline.

The act also specifies that if a homeschooled student enrolls at a participating college under the PSEO program (and chooses to take courses under Option B to have the college reimbursed), payments to that participating college must be made in the same manner as those payments made for students who attend a nonpublic school. As noted above, such payments come from a separate state amount set aside.

### **Alternative funding agreements**

(R.C. 3365.12)

Under continuing law, a participating college may receive reimbursement for PSEO through an alternative funding agreement with a high school, so long as (1) both the high school and the institution mutually agree on the alternative formula and (2) the alternative formula meets the rules adopted by the Superintendent of Public Instruction and the Chancellor of the Board of Regents.

The act stipulates that the rules adopted by the Superintendent and the Chancellor must prohibit charging a student participating in PSEO any tuition or fees.

### **Funding for participating nonpublic students**

(Section 263.190)

In recent years, due to the limited amount of funds allocated for participating nonpublic students and the growing demand for PSEO courses by these students, temporary law has authorized the Department to apportion those funds according to rule of the State Board. Under that rule, the Department has allocated funding to private school students according to units of study (that is, one course at a time for each student) and by giving priority to students based on their grade levels. Thus, twelfth-grade students had the highest priority for funding.

The act includes a similar temporary provision authorizing the Department to apportion these funds; however, the act specifies that funds must be apportioned according to rules adopted by the Department, rather than by the State Board.

### **Course content and reimbursement**

(R.C. 3365.07(C))

The act prohibits the Department from reimbursing a participating college for any remedial college course. Under continuing law, the Department is also prohibited



from reimbursing a participating college for any course that is taken under "Option A" of PSEO (see "**Background**" above).

### **College admission requirements**

(R.C. 3365.02(F))

Prior law prohibited a student from enrolling in a college course through the program if that student (1) had already taken high school courses in the same subject area as that college course and (2) had failed to attain a cumulative GPA of at least 3.0 on a 4.0 scale in such completed high school courses.

Instead, the act replaces this prohibition with a requirement that a student's participation in PSEO be based solely on the participating college's established "placement" standards for credit-bearing, college-level courses. Therefore, because certain college courses require prerequisites to be completed before enrolling in the class, this provision would likely allow colleges to require PSEO students to complete particular high school courses as prerequisites before participating in the program and enrolling in certain courses at the college level.

### **List of participating institutions**

(R.C. 3365.02 and 3365.021)

The act requires the Department to compile an annual list of all institutions of higher education that currently participate in PSEO or in other dual enrollment programs. This list must then be distributed, not later than December 31 of each school year, to all school districts, community schools, STEM schools, and chartered nonpublic schools in the state. Also, as part of the counseling services required of each district or school prior to a student's participation in PSEO, the act requires each district or school to provide the list of participating institutions to interested students and interested students' parents or guardians.

### **Dual enrollment programs**

(R.C. 3313.6013)

The act adds Early College High Schools to the list of programs or options that qualify as dual enrollment. Early College High Schools allow students to simultaneously take high school- and college-level courses, with the goal of earning both a high school diploma and an associate degree at the time of graduation.

Additionally, the act specifically prohibits school districts and public schools<sup>89</sup> from charging an enrolled student any additional fee or tuition for participation in a dual enrollment program that is offered by that district or school. The act does, however, specify that a participating student may be required to pay for costs related to an Advanced Placement (AP) or International Baccalaureate (IB) examination. An AP examination is required in order for a student to earn college credit in a subject area, while a certain number of IB examinations are required for conferral of an IB diploma. (For more information on these programs, see "**Background**" below.)

## **Background**

Under continuing law, a "dual enrollment program" is a program in which a high school student may choose to participate to earn credit toward a college degree while also completing the high school curriculum requirements. All public high schools in the state, as well as chartered nonpublic high schools, are required to offer at least one dual enrollment program.

Several programs or options qualify as dual enrollment, including the PSEO Program, Advanced Placement (AP) courses, and any program that is similar to PSEO and AP and is agreed upon by both the high school and the institution of higher education. Under the AP Program, students complete advanced coursework in specified subject areas (i.e. American History, English) with the possibility of earning college credit toward a degree. Students earn college credit based upon attainment of a specified score, prescribed by each institution of higher education, on the AP examination in the respective subject area. Additionally, the International Baccalaureate (IB) Program, which is often classified as a program similar to PSEO or AP, is an interdisciplinary education program, for which a diploma is awarded, that is recognized at various institutions of higher education both nationally and internationally. The program includes examinations in specified traditional and nontraditional courses, community service requirements, and an extended essay.

## **College Credit Plus program recommendations**

(Section 363.590)

The act requires the Chancellor of the Board of Regents to make recommendations to establish the "College Credit Plus" program. The program would allow high school students to earn credits through institutions of higher education in the state. Presumably, the program would replace the PSEO program.

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<sup>89</sup> This requirement applies to community schools through a cross-reference in R.C. 3314.03 and to STEM schools through a cross-reference in R.C. 3326.11.



In developing the recommendations, the Chancellor must consult with the Inter-University Council of Ohio, the Association of Independent Colleges and Universities of Ohio, the Ohio Association of Community Colleges, and the Superintendent of Public Instruction. By December 31, 2013, the Chancellor must provide a report of these recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives, "for implementation [of the program] in the 2014-2015 academic year."

### **Articulation agreements for technical coursework**

(Section 803.60)

The act explicitly states that any changes made to the PSEO program under the act do not require the alteration of (1) any existing or future articulation agreement for technical coursework offered through state-approved career-technical programs of study or (2) any corresponding payment structure between a state institution of higher education and a career-technical planning district. An articulation agreement is an agreement between two or more state institutions of higher education to facilitate the transfer of students and credits between such institutions.

In addition, the act requires the Department of Education and the Board of Regents to study the implications, resulting from the act's changes on these articulation agreements for technical coursework, specifically for technical coursework offered through state-approved career-technical programs, and make recommendations regarding the inclusion of career-technical programs in the program. These recommendations must be submitted to the Governor's Office of 21st Century Education and the General Assembly not later than July 1, 2014.

These provisions were associated with separate provisions of a previous version that would have replaced the PSEO program with the College Credit Plus program outright. Those provisions were removed prior to enactment but the articulation agreement provisions were left intact.

### **Participation in district extracurricular activities**

#### **Chartered and nonchartered nonpublic school students**

(R.C. 3313.5311)

The act requires each school district superintendent to afford any of the district's resident students who are enrolled in a chartered or nonchartered nonpublic school the opportunity to participate in extracurricular activities offered by the district school the student would attend, if the student's nonpublic school does not offer that

extracurricular activity. The act also permits, but does not require, a school district superintendent to afford any student who (1) is enrolled in a nonpublic school and (2) is *not* entitled to attend school in that district, the opportunity to participate in an extracurricular activity offered by a school of the district, if (1) the student's nonpublic school does not offer the activity, and (2) the activity is not interscholastic athletics, interscholastic contests, or competition in music, drama, or forensics.

To participate, the student must (1) meet age and grade level requirements for the school offering the activity, as determined by the district superintendent, and (2) fulfill the same academic, nonacademic, and financial requirements as any other participant in the extracurricular activity.

### **Homeschooled students**

(R.C. 3313.5312)

Similarly, the act requires each district superintendent to afford any of the district's resident students who are receiving home instruction the opportunity to participate in extracurricular activities offered by the student's resident district school. If the student is eligible to attend more than one school in the district, the student must participate at the school to which the student otherwise would be assigned.

If the activity in which the student is interested is offered by the student's resident district school, a student may *not* participate in that activity in another district or school to which the student is not entitled to attend. However, if a homeschooled student's resident district does *not* offer a particular activity in which the student is interested, the superintendent of any school district is *authorized* to afford the student the opportunity to participate in that activity.

To participate, the student must (1) meet age and grade level requirements for the school offering the activity, as determined by the superintendent, (2) fulfill the same academic, nonacademic, and financial requirements as any other participant in the extracurricular activity, and (3) fulfill either of the following requirements: (a) meet academic requirements established by the State Board for the continuation of home instruction (if homeschooled in the preceding grading period), or (b) based on the student's academic record for the preceding grading period, meet the district's academic eligibility standards for participating in extracurricular activities (if *not* homeschooled in the preceding grading period).

The act also specifies the eligibility requirements for students who are homeschooled for less than one full school year. For a student who leaves a district school to be homeschooled in the middle of the school year, eligibility is determined from an interim academic assessment issued by the student's resident district that is



based on the student's work while enrolled in the district. Moreover, a student who begins homeschooling after the school year commences, and who fails to meet the academic requirements of the student's resident district at the commencement of homeschooling, is, ineligible to participate in extracurricular activities. Such a student is ineligible at least for the remainder of the semester in which the student was determined ineligible and also until the student meets the State Board's academic requirements for homeschooling.

The act does not specify the eligibility requirements for a student who terminates homeschooling to attend school in the student's resident district.

### **Fee, rule, and eligibility restrictions**

(R.C. 3313.5311(E) and (F) and 3313.5312(F) and (G))

In a manner similar to continuing law regarding participation in district extracurricular activities by community and STEM school students, the act prohibits a school or district from imposing fees for a nonpublic school student or homeschooled student to participate in extracurricular activities that exceed any fees charged to other students for the same activities. It also prohibits the imposition of additional rules that do not apply to other students participating in the same activity. Finally, the act prohibits a school district, interscholastic conference, or organization that regulates interscholastic conferences or events from imposing eligibility requirements that conflict with the any of the applicable provisions.

### **Community and STEM school students**

(R.C. 3313.537)

Continuing law states that a school district must afford any of its resident students enrolled in a community school sponsored by the district the opportunity to participate in extracurricular activities offered by the "traditional public school" to which the student otherwise would be assigned. Prior law also had stated that a student enrolled in a STEM school must "be afforded the opportunity to participate" in an extracurricular activity at the school operated by the student's resident district. The act removes that provision and, instead, specifies that a student enrolled in a STEM school must "not be prohibited from participating" in an extracurricular activity.

The act also expressly prohibits a school district board from taking any action contrary to the provisions of law that generally authorize students enrolled in a community or STEM school the opportunity to participate in an extracurricular activity at the school operated by the student's resident district.

## **Chartered nonpublic school end-of-course examination exemption**

(R.C. 3313.612; conforming changes in R.C. 3301.0712 and 3313.615)

The act exempts students who attend a chartered nonpublic school accredited through the Independent School Association of the Central States from taking end-of-course examinations as a prerequisite from graduating from high school. Under continuing law, all students enrolled in a school district, community school, and STEM school, and, under prior law, all students enrolled in a chartered nonpublic school, with some exceptions, must pass the required state assessments to receive their high school diploma. Currently, that assessment is the Ohio Graduation Test (OGT); however, the OGT eventually is to be replaced with the college and work ready assessment system. The college and work ready assessment system consists of two parts – a nationally standardized assessment that measures college and career readiness and a series of end-of-course exams in the areas of science, mathematics, English language arts, American history, and American government.<sup>90</sup> Although the act exempts students who attend the specified accredited chartered nonpublic schools from the end-of-course exams, the act does not exempt those students from taking the nationally standardized assessment. Nor does the act exempt those students from taking the OGT.

## **Administration of kindergarten diagnostic assessments**

(R.C. 3301.0715)

The act specifies that, beginning July 1, 2014, each kindergarten student must take the prescribed diagnostic assessments between the first day of school and the first day of November, "except that the language and reading skills portion of the assessment must be administered by the thirtieth day of September." Law, maintained until July 1, 2014, specifies that each kindergarten student must take the diagnostic assessments not earlier than four weeks prior to the first day of school and not later than the first day of October.

Under continuing law, each school district, community school, and STEM school is required to administer certain diagnostic assessments at the appropriate grade level to specified students. For grades kindergarten through two, the prescribed diagnostic assessments are in reading, writing, and mathematics, and for grade three, the prescribed diagnostic assessments are in reading and writing. These assessments are

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<sup>90</sup> R.C. 3301.0712.

used to determine which students need to receive additional services in order to attain grade level performance.<sup>91</sup>

### **Kindergarten early enrollment**

(R.C. 3314.06 and 3321.01; Section 263.473)

The act prohibits any entity from requiring a student who was admitted to and successfully completed kindergarten in the 2012-2013 school year to repeat kindergarten based solely on the age of the student. Thus a student who successfully completed kindergarten in the 2012-2013 school year, but was younger than five years of age may not be held back from first grade because the student is younger than schoolage. The act defines "successfully completed kindergarten" to mean that the student attended kindergarten for not less than three-fourths of a year.<sup>92</sup> Further, the act specifies that a community school enrolling such a student must receive state funds for the student in the same manner as any other eligible students under the Community School Law.<sup>93</sup>

Finally, the act specifies that a child who will be five or six years old prior to the first day of January of the school year in which admission is requested must be evaluated for early admittance in accordance with district or community school policy upon referral.<sup>94</sup> Under continuing law, a child's parent or guardian, an educator employed by the district or community school, a preschool educator who knows the child, or a pediatrician or psychologist who knows the child may refer the child for such evaluation. Upon evaluation, the district or community school must decide whether to admit the child. If a student will not be five or six years old prior to the date described above, the child may only be admitted in accordance with the district's acceleration policy.<sup>95</sup>

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<sup>91</sup> R.C. 3301.079, not in the act.

<sup>92</sup> Section 263.473.

<sup>93</sup> R.C. 3314.06.

<sup>94</sup> R.C. 3321.01.

<sup>95</sup> R.C. 3324.10, not in the act. Community schools are not subject to this section. Thus, it may not be clear whether a community school now must have a grade acceleration policy (which otherwise it does not) if it intends to admit a student early.

## Joint vocational school district board membership

(R.C. 3311.19; conforming changes in R.C. 3313.911)

The act makes several changes to the method of appointing members to the boards of education of joint vocational school districts (JVSD). First, the act no longer provides that those boards be made up of representative members of the boards of the city, exempted village, or local school districts belonging to each respective JVSD or, in some cases, the educational services centers (ESC) serving the same county or counties. Rather, under the act, JVSD membership may be composed of members who are not themselves members of the represented district boards. On the other hand, district and ESC board members may still be members of a JVSD board, but only as long as they meet the act's other requirements.

Second, the act requires JVSD board members meet specific professional qualifications and be selected based on the diversity of the employers from the geographical region of the state in which the JVSD is located. Unlike prior law, not all of a JVSD's board members under the act must be residents of one of its member districts or ESC. But the act does prescribe that not less than three-fifths of the total number of a JVSD's board members must either reside in or be employed within the JVSD territory. Moreover, members of JVSD boards must have experience as chief financial officers, chief executive officers, human resources managers, or other business and industry professionals who are qualified to discuss the labor needs of the region with respect to the regional economy. The act also specifies that appointing district and ESC boards must appoint members who represent employers in the JVSD region who are qualified to consider a region's workforce needs with an understanding of the skills, training, and education needed for current and future employment needs in the region. In choosing members to appoint, district and ESC boards may give preference to a qualified individual who has served on a joint vocational school business advisory committee.

Third, under prior law, a JVSD's plan for appointment of its board, as filed with the Department of Education, had to include the number and terms of members of the JVSD board of education and the allocation of a given number of members to each member district and to the ESC. It also specified that each JVSD board consist of an odd number of members. While the act removes these particular specifications of the plan, it continues to require that the manner of appointment and the total number of a JVSD's board members be in accordance with the district's plan.

Fourth, the act specifies that the term of office for members of a JVSD board appointed on or after September 29, 2013, is three years. In addition, the act limits members to two consecutive terms, but a member may serve again after three or more years have passed since the member's last term expired.



Finally, the act specifies that the new appointments provided for under the act be made only as the terms of the current members of a JVSD's board expire or as those offices are otherwise vacated prior to the expiration date.

## **Extended programming**

(R.C. 3301.0725 and 3313.6018)

### **Requirements for extended programming**

The act provides that extended programming<sup>96</sup> for career-technical education students that is offered by school districts must be used for activities that involve direct contact with students or are directly related to student programs and activities. However, the act also provides that extended programming funds may be used for teacher professional development activities that are associated with agricultural education (see "**Agricultural education programs**," "**Professional development**" below). Moreover, the act prohibits a licensed educator from providing more than eight hours of extended programming in a 24-hour day.

### **Provision of extended programming by certificated instructional personnel**

The act permits a school district to employ certificated instructional personnel for the purpose of providing extended programming for "hours" outside of the normal school day. Under prior law, a school district was permitted to employ certificated instructional personnel for more "days" during a school year than the district normally employed its regular classroom teachers.

## **Agricultural education programs**

(R.C. 3313.6019)

### **Report with recommendations for quality agricultural education programs**

The act requires the Department of Education to issue a report with recommendations for quality agricultural education programs by December 31, 2013. These recommendations must be developed using both of the following:

(1) The standards for exemplary agricultural education that are described in the National Quality Program Standards for Secondary (Grades 9-12) Agricultural

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<sup>96</sup> "Extended programming" is defined in rules adopted by the State Board as "instruction beyond the regular school year, that is based on locally approved courses of study and provides graduation credit to enrolled career-technical students" (O.A.C. 3301-61-16).



Education<sup>97</sup> developed by the National Council for Agricultural Education (or a successor document developed by the National Council for Agricultural Education or its successor);

(2) The Quality Program Standards for Ohio's Agricultural and Environmental Systems Career Field Programs<sup>98</sup> (or a successor document) developed by the Department, the Ohio Association of Agricultural Educators, the Ohio State University, and Wilmington College of Ohio.

The report must include the appropriate use of extended programming in agricultural education programs and the recommended number of hours outside the normal school day that licensed educators may be permitted to provide extended programming instruction.

Following the initial issuance of the report, the Department may periodically review and update the report as it considers necessary.

### **Agricultural education instructors**

The act specifies that all agricultural education instructors must utilize a three-part model of agricultural education instruction of classroom instruction, FFA activities, and extended programming projects.

Agricultural education instructors must submit a monthly time log to the principal of the school at which the extended programming is offered (or the principal's designee) for review.

### **Professional development**

The act provides that professional development associated with agricultural education is to be considered an acceptable use of extended student programming funds.

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<sup>97</sup> To access this document, go to [www.ffa.org](http://www.ffa.org), then click on "Resources," then on "FFA Learn," then on "National Quality Program Standards Online Assessment," and then on the link for this document that is labeled "PDF."

<sup>98</sup> To access this document, go to [www.ohioffa.org](http://www.ohioffa.org), then click on "For Educators," then on "Resources Page," and then on the link under the "Quality Program Standards" heading.



## Teacher evaluations

(R.C. 3319.112)

Under continuing law, all school districts and educational service centers, and all community schools and STEM schools that receive federal Race to the Top grant funds, must adopt a standards-based teacher evaluation system that conforms to a framework developed by the State Board. The evaluation system must provide for multiple evaluation factors. Under continuing law, one of those factors must be student academic growth, and it must make up 50% of each evaluation.

The act specifies that in calculating student academic growth for an evaluation, a student must be excluded if the student has 45 or more *excused or unexcused* absences during the "full academic year," instead of 60 or more *unexcused* absences for the "school year" as under prior law.

The act also replaces the term "proficient" with the term "skilled" for the second highest level of performance for teachers and principals for the purpose of assigning evaluation ratings. Thus, under the act, a teacher may be rated as either "accomplished," "skilled," "developing," or "ineffective."

## Testing teachers (VETOED)

(R.C. 3319.58)

The Governor vetoed a provision that would have exempted a community school primarily comprised of students with disabilities from the continuing law requirement that a teacher retake all written examinations of content knowledge, if the school is ranked in the lowest 10% of all public school buildings according to performance index score.

## Assignment of business manager functions

(R.C. 3319.031; Section 733.20)

The act authorizes a school district board of education that chooses not to employ a business manager to assign the statutorily prescribed powers and duties of a business manager to one or more other district employees or officers, and to give them any title that reflects the assignment of those duties. The act also specifies that one of the district officers that may be given the powers and duties of a business manager is the district treasurer. Moreover, the act provides that the prohibition against a business manager having possession of district moneys does not prevent the district board from assigning the business manager's powers and duties to the treasurer and does not



prevent the treasurer who is assigned those powers and duties from exercising the powers and duties of a treasurer. If a board assigns the duties of a business manager to the district treasurer, the act specifies that the district superintendent – not the treasurer – is responsible for making recommendations for the appointment or discharge of most "noneducational employees." The district treasurer may retain, appoint, or discharge responsibility over noneducational staff assigned to the district's fiscal affairs, as under current law.

The act contains an uncodified provision expressing the General Assembly's intent to supersede the effect of a recent appellate district court decision, to the extent it conflicts with the act's provisions permitting a district board, in its "sole discretion," to assign the roles and functions of a business manager to one or more other employees or officers of the board, including the treasurer.<sup>99</sup>

## **Background**

Each school district board may (but is not required to) employ a district "business manager." If a board does employ a business manager, it may specify that the person either is responsible directly to the board or to the district superintendent. No one may be employed as a business manager without a business manager's license issued by the State Board. A business manager's statutory duties include:

- (1) Care and custody of all district property except moneys;
- (2) Supervision of the construction, maintenance, operation, and repairs of buildings;
- (3) Advertisement for bids for, purchase of, and custody of all district supplies and equipment; and
- (4) Assistance in the preparation of the district's annual appropriation resolution.

The business manager also may be given the authority to employ and terminate (with board confirmation) "noneducational employees," except those employees directly engaged in day-to-day fiscal operations and who are, instead, under the supervision of the district treasurer.<sup>100</sup>

On the other hand, a district board must employ a district treasurer, who the statute specifies is the chief fiscal officer of the school district. Accordingly, the treasurer

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<sup>99</sup> *OAPSE/AFSCME Local 4 v. Berdine*, 174 Ohio App.3d 46 (8th Dist. 2007).

<sup>100</sup> R.C. 3313.03 and 3313.04, neither in the act.



has custody of the district funds and is responsible for its financial affairs. The treasurer reports to and is subject to the direction of only the district board.

### **Nomination of teachers for employment**

(R.C. 3319.07)

Law unchanged by the act requires each school district board of education to employ the teachers of the schools of its district. Additionally, the governing board of each educational service center (ESC) employs certain teachers to provide services to the school districts with service agreements with the ESC. However, continuing law prohibits employment of a teacher who was not nominated by the superintendent of either the school district or ESC. Also, continuing law prohibits any public official from knowingly authorizing, or from employing the authority or influence of the public official's office to secure authorization of, any public contract in which, a member of the public official's family has an interest.<sup>101</sup> Collectively, these laws prohibit a district superintendent from nominating for employment a family member.

This created a conflict for a district superintendent where a family member was qualified to teach in the same district. To address this situation, the act permits a different individual, who is selected by the district or ESC board, to nominate an individual who is related to the superintendent for employment within that district or ESC.

### **In-service training for human trafficking prevention**

(R.C. 3319.073)

The act requires that human trafficking content be added to every public school's in-service training program in school safety and violence prevention, which most school employees are required to complete. Under continuing law, school districts, community schools, and STEM schools are required to offer an in-service training program to all employees who work as a nurse, teacher, counselor, psychologist, or administrator at the district or school. The program must include training in school safety and violence prevention, which includes bullying, harassment, intimidation, dating violence, and youth suicide. School employees are required to complete four hours of training every five years.

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<sup>101</sup> R.C. 2921.42, not in the act.



## **Governor's schools recognition program**

(R.C. 3302.22)

Law enacted in 2011 created the Governor's Effective and Efficient Schools Recognition Program. Under that program, the Governor annually is to recognize the top 10% of all public schools in Ohio from among city, exempted village, local, or joint vocational school districts; community schools; and STEM schools. These top schools are determined by the Department of Education according to standards established by the Department, which must include: (1) student performance, including, at a minimum, performance indicators, report cards, performance index scores, and statewide and national assessments, and (2) fiscal performance, including cost-effective measures taken by schools.

The act revises this program in several ways. First, it requires the Department to consult with the Governor's Office of 21st Century Education in establishing standards for the program.

Second, while it continues to require the standards to include indicators for both student performance and fiscal performance, the act now makes the application of these indicators contingent upon the availability of data. Also, the standards for student performance and fiscal performance are no longer required to include any specific factors for determining performance but may vary based upon type of public school. Moreover, the performance standards may be applied either at the school building or district level.

Finally, the act adds public college-preparatory boarding schools to the list of schools eligible for recognition.

## **STEM school contracting authority**

(R.C. 3326.07 and 3326.08)

The act expressly permits a STEM school to contract for any services necessary for the operation of the school. The act also specifies, that a STEM school must "engage the services" of, rather than "employ and fix the compensation for" officers, teachers, and other employees and "engage the services" of, rather than "employ" a chief administrative officer.



## **Physical activity pilot program**

(R.C. 3313.6016)

Law retained in part by the act authorizes school districts, community schools, STEM schools, and chartered nonpublic schools to participate in a physical activity pilot program in which participating districts and schools must require most students to engage in at least 30 minutes of moderate to rigorous physical activity each school day, exclusive of recess.

The act requires a participating school district to select one or more school buildings to participate in the program, rather than requiring all schools operated by the district. Moreover, the act adjusts the program's 30-minute daily requirement for a participating school's students by allowing the students, alternatively, to satisfy the requirement with at least 150 minutes of physical activity in a week.

## **Report card rating system benchmarks**

(R.C. 3302.03(L))

Effective March 22, 2013, H.B. 555 of the 129th General Assembly established a new academic performance rating and report card system for school districts and individual schools, using letter grades and numerous reported and graded performance measures. This act specifies that the State Board, beginning with the 2015-2016 school year and at least once every three years thereafter, must review and may adjust the benchmarks for assigning letter grades to the 18 academic performance measures and six components under that system.<sup>102</sup>

This act's provisions add to continuing law, enacted in H.B. 555, which already requires the State Board to adopt rules to prescribe the grading methods and benchmarks for assigning an overall grade and for assigning a letter grade to each of the components and performance measures at various times. Specifically, by April 30, 2013, the State Board was required to adopt a resolution describing the performance measures, benchmarks, and grading systems to be used for only the 2012-2013 school year. By June 30, 2013, the State Board was required to prescribe the benchmarks for (1) annual measurable objectives, (2) performance index score, (3) number of performance indicators met, (4) graduation rates, (5) overall value-added progress dimension, and (6) disaggregated value-added progress dimension. By December 30, 2013, the State Board must prescribe, for the 2013-2014 school year only, the benchmarks for the

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<sup>102</sup> This system does not apply to community schools operating dropout prevention and recovery programs, which are rated under a separate system.



disaggregated value-added progress dimension and kindergarten through third-grade literacy progress measure. Finally, prior to the beginning of the 2014-2015 school year, the State Board must prescribe the methods for calculating the components to determine an overall grade for school districts and schools.<sup>103</sup>

### **No Child Left Behind waiver**

(R.C. 3302.01(C) and repealed R.C. 3302.043)

The act repeals a provision that permitted the Ohio Department of Education to implement changes described in the federal "No Child Left Behind Act" (NCLB) waiver application once the application was approved by the U.S. Department of Education. While the repealed provision authorized the Ohio Department of Education to implement the waiver's changes, it also prohibited the Department from implementing a new report card system.

In May 2012, the U.S. Department of Education approved Ohio's flexibility waiver application, thus granting the Ohio Department of Education the authorization to implement the changes prescribed in the waiver. Reportedly, the Department has plans to apply for a new waiver based on the recently enacted report card rating system. The provision repealed by the act apparently is obsolete.

The act also adds to Ohio's statutory definition of the NCLB any waiver approved by the U.S. Department of Education. Under continuing law, that definition includes the NCLB statutes, amendments, rules and regulations, guidance documents, and policy directives from the U.S. Department of Education.

### **New Leaders for Ohio Schools**

(Section 733.40)

The act requires the formation of a nonprofit corporation to create the New Leaders for Ohio Schools pilot program that provides an alternative path whereby individuals become administrators of primary and secondary schools. To this end, the act requires the Superintendent of Public Instruction to appoint three individuals who are knowledgeable about the administration of public schools and about the operation of nonprofit corporations in Ohio to function as incorporators. The incorporators are to do whatever is necessary and proper to create the nonprofit corporation under the General Nonprofit Corporation Law. The articles of incorporation, in addition to

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<sup>103</sup> R.C. 3302.03(A)(2), (B)(3), and (C)(3).



meeting the requirements of that law, must include all of the provisions described below.

The purpose of the nonprofit corporation is to create and implement a pilot program that (1) provides an alternative path for individuals to receive training and development in the administration of primary and secondary education and leadership, (2) that will enable these individuals to earn a degree in public school administration, (3) that will enable these individuals to obtain licenses in public school administration, and (4) that promotes the placement of these individuals as administrators in public schools that have a poverty percentage greater than 50%.

The name of the nonprofit corporation is to be "New Leaders for Ohio Schools."

The board of directors of the nonprofit corporation is to consist of the following nine directors: the Governor or the Governor's designee; the Superintendent or the Superintendent's designee; the Chancellor of the Board of Regents or the Chancellor's designee; two individuals to represent major business enterprises in Ohio; two individuals appointed by the Speaker of the House, one of whom must be an active duty or retired military officer; and two individuals appointed by the President of the Senate, one of whom must be a current or retired teacher or principal.

The Dean of the Ohio State University Fisher College of Business and the Dean of the OSU College of Education and Human Ecology are to serve as ex-officio nonvoting members of the board.

The individuals on the board who represent major business enterprises in Ohio are to be appointed by a statewide organization selected by the Governor. The organization is to be nonpartisan and consist of chief executive officers of major corporations organized in Ohio.

The board is to elect a chairperson from among its members, and is to appoint a president of the corporation. The president, subject to the approval of the Board, is to enter into a contract with the OSU Fisher College of Business. Under the contract, the College is to provide oversight to the corporation, serve as fiscal agent for the corporation, and provide the corporation with office space, and with office furniture and equipment, as is necessary for the corporation successfully to fulfill its duties.

The board must establish criteria for program costs, participant selection, and continued participation, and metrics to document and measure pilot program activities.

The overhead expenses of the nonprofit corporation are not to exceed 15% of the annual budget of the corporation.



The president must apply for, and is to receive and accept, grants, gifts, bequests, and contributions from private sources to support the nonprofit corporation.

The nonprofit corporation must submit an annual report to the General Assembly and Governor beginning December 31, 2013.

Finally, state financial support for the nonprofit corporation is to cease on September 29, 2018.

### **Alternative license**

(Section 733.50)

The act requires the State Board of Education to issue an alternative principal or alternative administrator license to an individual who successfully completes the New Leaders for Ohio Schools pilot program. The State Board must adopt rules that prescribe the requirements for such licenses and use existing rules for alternative principal and administrator licenses, required under continuing law, as a guideline for the new rules. The act does not specify a date by which the State Board must adopt the new rules.

### **School district revenue from sale of real property**

(R.C. 5705.10)

The act requires the board of education of a school district to apply proceeds received from the sale of real property to retire any debt that was incurred by the district with respect to that real property. The act also authorizes proceeds in excess of the funds necessary to retire that debt to be paid into the school district's capital and maintenance fund and used only to pay for the costs of nonoperating capital expenses related to technology infrastructure and equipment to be used for instruction and assessment.

Continuing law, except as provided by the act, generally requires such money to be paid into the sinking fund, the bond retirement fund, or a special fund for the construction or acquisition of permanent improvements. Continuing law also provides municipal school districts, under certain circumstances, with authority to pay such money into the district's general fund.

## **Executive sessions of municipal school district transformation alliance**

(R.C. 3311.86)

Under continuing law, meetings of the board of directors of a municipal school district transformation alliance are public meetings open to the public at all times, except that the board may hold an executive session. The act clarifies that the board and its committees and subcommittees may hold executive sessions, as if they were a public body with public employees, for any of the purposes for which an executive session may be held under the Open Meetings Law,<sup>104</sup> notwithstanding that the alliance is not a public body as defined in that Law, and that its employees are not public employees.

Under continuing law, a municipal school district is "a school district that is or has ever been under a federal court order requiring supervision and operational, fiscal, and personnel management of the district by the state Superintendent of Public Instruction."<sup>105</sup> Cleveland currently is the only municipal school district. Unlike other school districts, the board of education of a municipal school district is appointed by the mayor of the city containing the largest portion of the district's territory (City of Cleveland). H.B. 525 of the 129th General Assembly, enacted in 2012, prescribes a number of revisions in the administration of a municipal school district. One of those provisions authorizes the mayor to establish and appoint the board of directors of a municipal school district transformation alliance to advise the district and Department of Education regarding district initiatives.

## **State schools' Employees Food Service funds**

(R.C. 3325.13 and 3325.14; Sections 375.10 and 377.10)

The act creates two separate funds: (1) the State School for the Blind Employees Food Service Fund, and (2) the State School for the Deaf Employees Food Service Fund. Each fund consists of payments received from the respective school's employees who make purchases from the school's food service program. The money generated from those payments must be used to pay costs associated with the school's food service program. The act also specifies that the approval of the State Board of Education is not required to designate money for deposit into either of the funds.

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<sup>104</sup> R.C. 121.22.

<sup>105</sup> R.C. 3311.71(A), not in the act.

