



Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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Interscholastic Athletics

In the 2023-2024 school year, a little over 313,000 high school students participate in interscholastic athletics in Ohio, ranking Ohio sixth in the nation in participation.¹

State law authorizes school districts to implement athletic programs and addresses some aspects of interscholastic athletics, such as the participation of nonenrolled students in district athletic programs, international student participation, and protocols and safeguards for some sports-related injuries. Nevertheless, interscholastic athletics are regulated largely by schools and school districts and the private Ohio High School Athletic Association (OHSAA).

Federal law generally does not regulate interscholastic athletics. However, federal law does address equal access to opportunities for students with disabilities and female students and requires equal treatment in sports.

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¹See the [National Federation of State High School Associations 2023-2024 High School Athletics Participation Survey \(PDF\)](#), which is available on the NFHS website: nfhs.org.

Privilege, not a right

Based on the statutory law and on court decisions, participation in interscholastic athletics is a privilege and not a right. Ohio courts have held that “participation in interscholastic athletics in and of itself has never been held to be a constitutionally protected civil right.”² Therefore, school boards and athletic associations have the authority to regulate interscholastic athletics and to establish program and eligibility requirements, so long as the regulations and requirements comply with state and federal law.

State law

As a general matter, the management and control of each school district is vested in a district board of education, with the superintendent being the executive officer for the board.³ School boards have the power to regulate athletic programs, including establishing eligibility requirements. On the other hand, the General Assembly has enacted a few state laws regarding interscholastic athletics, such as affording opportunities for nonenrolled students to participate in athletics under certain circumstances and requiring concussion and cardiac arrest protocols for schools, coaches, and sports officials. The extent of the General Assembly’s policymaking is summarized in a table in the **Appendix** below.

Interscholastic single-sex athletic teams

State law requires each school that participates in athletic competitions or events administered by an organization that regulates interscholastic athletic conferences or events to designate athletic teams based on the sex of participants. Each school must have separate teams for participants of the female sex within female sports divisions, separate teams for participants of the male sex within male sports divisions, and if applicable, co-ed teams for participants of both sexes within co-ed sports divisions.⁴

State law further prohibits a school, interscholastic conference, or organization that regulates interscholastic athletics from *knowingly* permitting males from participating on athletic teams or in athletic competitions designated only for female participants. However, the law clarifies that it does not restrict the eligibility of any student to participate on any athletic team or in competitions designated as male or co-ed.⁵

² *Menke v. Ohio High School Athletic Association*, 2 Ohio App.3d 244, 245 (1981); see also *Nelson v. Ohio High Sch. Ath. Ass’n*, 2018-Ohio-4169 and *Paige v. Ohio High Sch. Ath. Ass’n*, 2013-Ohio-4713.

³ R.C. 3313.47 and 3319.01.

⁴ R.C. 3313.5320(A). These provisions were enacted in 2024 by H.B. 68 of the 135th General Assembly as R.C. 3313.5319. The LSC Director has recodified them as R.C. 3313.5320.

⁵ R.C. 3313.5320(B).

Eligibility to participate in district athletics

Private schools

Resident district

Under current law, if a chartered or nonchartered nonpublic school does not offer the extracurricular activity a student wishes to participate in, including athletics, a student enrolled in that school must be provided, by the superintendent of the school district in which the student is entitled to attend school,⁶ the opportunity to participate in that activity at the district school the student would otherwise be assigned during the school year.⁷

If there is more than one school operated by the school district that serves the student's grade level, the student must be provided the opportunity to participate in that extracurricular activity at the public school the student would be assigned by the superintendent.⁸

Nonresident district

A student may also participate in an extracurricular activity at a school district that is not their district of residence under certain circumstances.

If the activity is interscholastic athletics or a contest or competition in music, drama, or forensics, a student may participate in the activity at either the school district in which the student is entitled to attend school (Resident District) or the school district in which the student's nonpublic school is located (Nonresident District). To participate in the Nonresident District, the superintendent of the Resident District must certify that the student has not participated in interscholastic athletics or an interscholastic competition in music, drama, or forensics at that school district during that school year. Then the superintendents of both the Resident and Nonresident Districts must mutually agree in writing to allow the student to participate at the Nonresident District. A student may participate in those types of activities in the Resident District without any additional requirements.

Any student may participate in an extracurricular activity at a school district, regardless of where the student lives and where their nonpublic school is located, if the activity is *not* interscholastic athletics or interscholastic competition in music, drama, or forensics, and the school district superintendent permits it.⁹

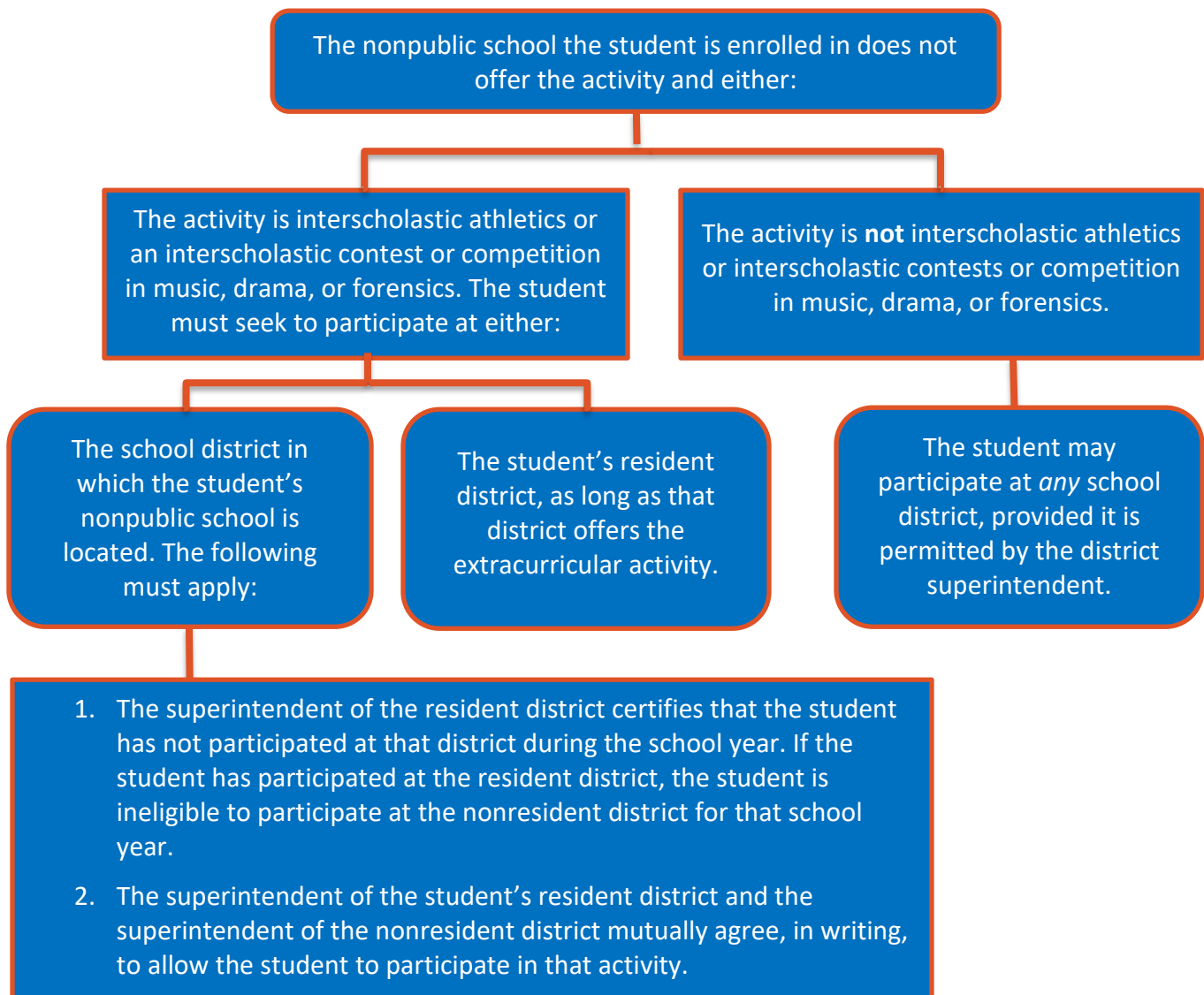
The following chart describes when a superintendent of any school district may provide a student enrolled in a nonpublic school the opportunity to participate in an extracurricular activity offered by a school of the district.

⁶ R.C. 3313.64 or 3313.65.

⁷ R.C. 3313.5311(B).

⁸ R.C. 3319.01.

⁹ R.C. 3313.5311(C)(2).



Student eligibility

For a nonpublic student to participate in an extracurricular activity, the student must be of the appropriate age and grade level and fulfill the same academic, nonacademic, and financial requirements as any other participant.¹⁰

School district rules, fees

The law prohibits a school district from imposing additional rules or fees on a nonpublic student that do not apply to any other student participating in the same extracurricular activity. It also prohibits a school district, interscholastic conference, or organization that regulates

¹⁰ R.C. 3313.5311(D).

interscholastic conferences or events from requiring an eligible student to meet any eligibility requirements that conflict with the law.¹¹

Other public school or home-educated students and victims of harassment

State law also entitles students who are district residents, but who are home schooled, attend a community school, or attend a STEM school, to participate in interscholastic athletics at the district schools to which they would have been assigned.¹²

Additionally, a school district superintendent or chief administrative officer of a school may permit a home-educated student or a student enrolled in a different school district, community school, STEM school, chartered nonpublic school, or nonchartered nonpublic school to participate in interscholastic athletics at one of the superintendent or officer's schools if the student was a victim of any harassment, intimidation, or bullying or other qualifying offense committed by a school official, employee, or volunteer or another student.¹³

Tickets to school-affiliated events

State law requires schools and athletic organizations to accept cash payments for tickets to, and concessions at, school-affiliated events. This requirement applies to (1) public and chartered nonpublic schools that participate in athletic events regulated by an interscholastic conference, and (2) organizations that regulate interscholastic conferences or competitions among member schools (for example, OHSAA). They are prohibited from establishing different ticket prices for school-affiliated events based on whether a ticket is purchased using cash or any other payment method, and they must charge students a lower ticket price than the price charged for an adult for the same event.¹⁴

Ohio High School Athletic Association

The Ohio High School Athletic Association (OHSAA) regulates and administers competition for grades 7 through 12. Founded in 1907, it is a voluntary, unincorporated, not-for-profit association of public and private schools that is governed by its own constitution and bylaws. The OHSAA is managed by a Board of Directors and employs a staff for its day-to-day operations.

Membership in OHSAA

For the 2023-2024 school year, OHSAA had approximately 819 member high schools and 749 member middle schools.¹⁵ Membership is voluntary and “open to any school with any combination of grades seven through twelve” as long as it is chartered by the Department of Education and Workforce or operates in accordance with the Department’s minimum standards

¹¹ R.C. 3313.5311(E) and (F).

¹² R.C. 3313.537 and 3313.5312.

¹³ R.C. 3313.5313.

¹⁴ R.C. 3313.5319.

¹⁵ See the OHSAA [2023-2024 Handbook \(PDF\)](https://ohsaa.org/AboutOHSAA), which is available on OHSAA's website: ohsaa.org/AboutOHSAA.

for nonchartered schools. This includes school districts, community schools, STEM schools, and private schools. The school must also have “conformed with all bylaws and regulations of the OHSAA for a minimum period of one year immediately prior to the date of application.” In addition, the school must have “sponsored at least two varsity ‘recognized sports’ . . . per sport season in the school year immediately prior to becoming a member” and must intend to continue at this minimum sponsorship level, including participation in OHSAA tournaments.¹⁶ Membership in the OHSAA must be renewed annually.

Student eligibility under OHSAA

One set of OHSAA rules that receives much attention concerns the athletic eligibility of students. Therefore, OHSAA includes an “Eligibility Resource Center” on its website that is available to the public. The resource center includes nine individual resource centers that pertain to aspects of student eligibility: transfers, age limitations, enrollment and attendance, scholarship, conduct/character/discipline, residence, international and exchange students, recruiting, and amateur status.¹⁷

Generally, the OHSAA rules require that:

1. The student and student’s parent reside in Ohio.
2. The student is enrolled in and attending the school sponsoring the team.
3. A 7th or 8th grade student may not turn age 15 before August 1 in the ensuing school year.
4. A high school student is under age 20.
5. A 7th or 8th grade student participates for no more than four semesters at the 7th and 8th grade levels.
6. A high school student is enrolled in high school for no more than eight semesters.
7. The student receives passing grades in at least five one-credit courses in the immediately preceding grading period.
8. The student maintains amateur status.
9. The student does not participate in mandatory open gyms or conditioning outside of the sport’s prescribed season.
10. The student has a physical examination each year and the examination is on file at the school.

¹⁶ OHSAA Constitution, Article 3.

¹⁷ See OHSAA’s [Eligibility Resource Center](http://ohsaa.org), which may be accessed under “Eligibility” through OHSAA’s website: ohsaa.org.

11. If the student transfers schools, the student fulfills the applicable requirements, depending on the type of transfer, which may include not participating in contests for a portion of the season.¹⁸

Exceptions and appeals. The OHSAA website also includes the exceptions to each bylaw. To maintain athletic eligibility under an exception, the student must submit a form or documentation showing compliance with the exception. For many cases, the OHSAA Commissioner's Office retains the power to grant or deny athletic eligibility, in accordance with OHSAA rules. Decisions by the Commissioner's Office may be appealed to the OHSAA Appeals Panel.

Compliance. All OHSAA rules must comply with state law, including those related to athletic eligibility. OHSAA's constitution and the bylaws themselves specify that they must comply with Ohio law, and the Board has the authority to immediately change a bylaw or part of the constitution as necessary. If there is a discrepancy between state law and OHSAA rules, state law prevails.

Rights of athletes under federal law

While participation in interscholastic athletics is a privilege and not a protected right, equal treatment in sports is. Federal legislation addresses equal access to opportunities for students with disabilities and female students.

Students with disabilities

The federal Individuals with Disabilities Education Act (IDEA) entitles all students with disabilities to a free and appropriate public education.¹⁹ This entitlement also encompasses extracurricular activities. Under IDEA, each public school must "provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities." These "nonacademic and extracurricular services" may include athletics.²⁰

Section 504 of the federal Rehabilitation Act of 1973 prohibits the exclusion of an individual with a disability from participation under any federally funded activity.²¹ The Act directs school districts to provide students with disabilities access to all opportunities and services available to their nondisabled peers, including extracurricular activities such as athletics. Access to an opportunity, however, does not mean a guarantee for participation in an activity.

¹⁸ See OHSAA's [High School Eligibility Guide and Checklist for Student Athletes \(PDF\)](#) and [7th and 8th Grade Eligibility Guide and Checklist for Student Athletes \(PDF\)](#), which are available on OHSAA's website: ohsaa.org/Eligibility.

¹⁹ 20 United States Code (U.S.C.) 1400 *et seq.*

²⁰ 34 Code of Federal Regulations (C.F.R.) 300.107.

²¹ Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

Female students; Title IX

Title IX of the federal Education Amendments of 1972 protects against gender discrimination under any school program or activity that receives federal assistance.²² It applies to all schools receiving federal assistance, including public schools, chartered nonpublic schools, and most colleges and universities. It is enforced by the U.S. Department of Education through its Office for Civil Rights (OCR). Two areas are examined to determine compliance with equal access to athletics under Title IX: participation and treatment.

Participation. OCR uses three “tests” to determine equality of participation. A school need comply only with one of the three. According to the OCR’s “Title IX Resource Guide,” these tests are:

1. Whether participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments;
2. Where the members of one sex have been and are underrepresented among athletes, whether the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the members of that sex;
3. Where the members of one sex are underrepresented among athletes, and the institution cannot show a history and continuing practice of program expansion, whether it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.²³

Treatment. Under Title IX, female athletes should receive the same advantages and access provided to male teams. In weighing equal treatment of athletes, the OCR considers several different categories, which include provision of equipment and facilities, interest accommodation, and scheduling of games and practices. However, Title IX does not require a “tit-for-tat” system, but instead a system where an advantage or favorable treatment is not concentrated on boys’ athletics. For example, the amount of funding girls’ sports receive does not necessarily have to equal the amount boys’ sports receive. The Women’s Sports Foundation explains that “the only dollar for dollar expenditure requirement is in the athletic financial assistance area, where schools are required to spend dollars proportional to participation rates.”²⁴

In April of 2024, the U.S. Department of Education amended its regulations implementing Title IX to expand the definition of “sex-based harassment” to include sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, and

²² 20 U.S.C. 1681.

²³ See the Office for Civil Rights [Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test](#), which may be accessed on the U.S. Department of Education’s website: [ed.gov](#).

²⁴ See the Women’s Sports Foundation article, [What is Title IX](#), which may be accessed at the Women’s Sports Foundation website: [womenssportsfoundation.org](#).

sexual orientation, in addition to gender identity.²⁵ Ohio was one of six states to file a complaint with the U.S. District Court for the Eastern District of Kentucky to enjoin and invalidate the rule. The court granted a preliminary injunction, and the Department was prohibited from enforcing the rule in the plaintiff states. The Department appealed the decision, and the U.S. Sixth Circuit Court of Appeals²⁶ denied the appeal and upheld the injunction. The Department filed for an application for a partial stay of the injunction from the Supreme Court, which denied the application on August 16, 2024.²⁷

Appendix

State Statutes Addressing Interscholastic Athletics	
R.C. Section	Description of Authority
3109.78	Prohibits a person from creating a power of attorney or executing a caretaker authorization affidavit for the purpose of enrolling the child in a school or school district so that the child may participate in the school's or district's academic or interscholastic athletics programs.
3301.60	Includes Ohio in the Interstate Compact on Educational Opportunity for Military Children to remove barriers imposed on children of military families by facilitating the qualification and eligibility for enrollment, including participation in interscholastic athletics.
3313.20 and 3313.47	Authorizes boards of education to manage and control district schools and to adopt reasonable rules for their governance.
3313.53	Permits boards of education to establish extracurricular programs, including athletics.
3313.535	Requires boards of education to establish a minimum grade point average (GPA) as a condition for participation in interscholastic athletics. ²⁸

²⁵ 36 C.F.R. 106.2 and 106.10.

²⁶ A decision by the Sixth Circuit Court of Appeals is controlling in all federal courts in Ohio, Michigan, Kentucky, and Tennessee.

²⁷ [State of Tennessee, et al v. Cardona, et al.](#) available at [govinfo.gov](#) and [Cardona v. Tennessee \(2024\)](#) available at [supremecourt.gov](#).

²⁸ OHSAA also imposes academic eligibility standards.

State Statutes Addressing Interscholastic Athletics	
R.C. Section	Description of Authority
3313.537	Entitles students who are district residents, but who attend community schools or STEM schools, to participate in interscholastic athletics at the district school to which the student would have been assigned.
3313.538	Prohibits a student who attends school in Ohio from being denied the opportunity to participate in interscholastic athletics solely because the student's parents do not reside in the state, so long as the student resides in Ohio with a specified relative who has legal or temporary custody of the student or is the student's guardian.
3313.539, 3707.511, 3707.52, and 3707.521	Requires schools to provide students and parents with information on head injuries; requires coaches and referees of interscholastic athletics at all public and private schools to remove from practice or competition an athlete exhibiting signs, symptoms, or behaviors consistent with a concussion or head injury; and prohibits removed athletes from returning to practice or competition until the athlete has been assessed and cleared for return by a statutorily authorized licensed health care professional.
3313.5310, 3314.145, 3326.29, 3707.58, and 3707.59	Requires coaches at public and private schools to remove from participation an athlete exhibiting syncope or fainting; requires coaches to annually complete a sudden cardiac arrest training course; and prohibits students from participating if predisposed, known to have experienced symptoms, or removed from participation due to symptoms until cleared by a statutorily authorized licensed health care professional.
3313.5311	Entitles students who attend a private school to participate in interscholastic athletics at the district school to which the student would have been assigned or, under specified circumstances, the district in which the nonpublic school is located, if the private school does not offer that athletic activity.
3313.5312	Entitles students who are district residents, but who are home schooled, to participate in interscholastic athletics at the district school to which the student would have been assigned.
3313.5313	Permits a student who is the victim of certain offenses committed by a school official, employee, or volunteer or another student to participate in interscholastic athletics at a different school. Prohibits a district or school, interscholastic conference, and OHSAA and other organizations regulating

State Statutes Addressing Interscholastic Athletics	
R.C. Section	Description of Authority
	interscholastic athletics from imposing extra fees, rules, penalties, or restrictions on students who participate in interscholastic athletics at a different school in this circumstance.
3313.5314	Prohibits students from being denied participation in interscholastic athletics solely due to the student's participation in the College Credit Plus program.
3313.5315	Permits any international student who attends an Ohio elementary or secondary school to participate in interscholastic athletics at that school on the same basis as Ohio residents if the student holds an F-1 U.S. visa. ²⁹ The student cannot be denied the opportunity to participate in interscholastic athletics solely because the student's parents do not reside in this state.
3313.5317	Generally prohibits a school or interscholastic athletics conference or organization from obstructing the wearing of religious apparel in interscholastic athletics or extracurricular activities.
3313.5318	Prohibits individuals from coaching an athletic activity at a public school or nonpublic school that is subject to the rules of an interscholastic conference or organization that regulates interscholastic conferences or events unless the individual has completed a student mental health training course.
3313.5319	Requires public and chartered nonpublic schools, and interscholastic conferences and organizations, to accept cash payments for tickets and concessions at school-affiliated events, and prohibits them from establishing different ticket prices based on cash purchase versus another payment method. Requires them to charge students a lower ticket price than the price charged adults for the same event.
3313.5320	Requires each school that participates in athletic competitions or events administered by an organization that regulates interscholastic athletic

²⁹ An F-1 visa, or academic student visa, is a nonimmigrant visa that permits an individual to enter the U.S. as a full-time student in a degree, diploma, or certificate program at an accredited college, university, seminary, conservatory, elementary or high school, or other academic institution or in a language training program. More information about [student visas](#) is available on the U.S. Citizenship and Immigration Services website: uscis.gov.

State Statutes Addressing Interscholastic Athletics	
R.C. Section	Description of Authority
	conferences or events to designate separate single-sex athletic teams based on the sex of the participants.
3313.603(L)	Permits schools to adopt a policy excusing high school students who participate in interscholastic athletics, for at least two full seasons, from the physical education requirement for graduation.
3313.64(F)(6) and (7)	Entitles students to attend a school district other than the one in which the parent resides if the parent is having a home built or is waiting to close a mortgage, and to participate in interscholastic athletics if the board of education of the former district agrees.
3313.64(F)(12)	Permits a student to attend a school district other than the one in which the parent resides if both districts agree that the purpose is to protect the student's physical or mental well-being or to deal with other extenuating circumstances, and requires that the student be allowed to participate in all student activities, including interscholastic athletics.
3313.664	Authorizes boards of education to adopt policies that prohibit a student from participating in any or all extracurricular activities.
3313.752	Requires boards of education to post anabolic steroid warnings in locker rooms of all school buildings with students above grade 6.
3313.97, 3313.98, 3313.983, 3314.06, and 3326.10	Prohibits most school districts for purposes of open enrollment, and all community schools and STEM schools, from limiting admission to students on the basis of athletic ability.
3313.982	Permits a school district to limit admission of open enrollment students on the basis of athletic ability only if (1) the district was operating under that policy before October 1, 1989, or (2) the district submits a plan to the Department of Education and Workforce to operate under that policy and receives the Department's approval.
3315.062	Authorizes district boards to spend up to 0.5% of their annual operating budget for student activities; requires that receipts of a student activity program exceeding \$50 be deposited in a student activity fund; and allows boards to

State Statutes Addressing Interscholastic Athletics	
R.C. Section	Description of Authority
	purchase accident insurance or establish a self-insurance plan for student athletes.
3319.303	Requires individuals to obtain a pupil-activity program permit issued by the State Board of Education in order to coach or supervise interscholastic athletics. In order to obtain or renew a permit, individuals must complete training on head injuries and concussions.
3321.041	Requires public schools to count up to 24 hours of absences as excused absences per school year, if a student is traveling out of the state to participate in interscholastic athletics. Students still must complete classroom assignments that were missed during that period.