



Ohio Legislative Service Commission

Final Analysis

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ACT SUMMARY

Sponsor and governing authority contract

- Clarifies that each contract between a community school sponsor and governing authority must contain performance standards, including all applicable report card measures.
- Requires that each contract between a sponsor and a governing authority contain stipulations regarding facilities costs and financing, attendance policies and records, and loans from the school's operator.
- Requires a community school to file its policies and procedures for internal financial controls with the school's sponsor.
- Requires that a community school's attendance and participation records be made available to the extent permitted by federal law.

Governing authority members

- Prohibits an employee of a school district or educational service center from serving on the governing authority of any community school sponsored by that district or service center.

- Prohibits a community school governing authority member from being a member of a school district board of education, and prohibits a district board member from being a governing authority member.
- Prohibits any person who would otherwise be subject to refusal, limitation, or revocation of a license to teach, if the person were a licensed educator, from serving as a member of a community school governing authority.
- Prohibits any person who has pleaded guilty to or been convicted of theft in office from serving as a member of a community school governing authority.
- Prohibits any person who has not submitted to a criminal records check from serving on the governing authority or engaging in the financial day-to-day management of the community school under contract with the governing authority.
- Requires each member of a community school governing authority to annually file a disclosure statement setting forth potential conflicts of interest.
- Limits the compensation for a community school governing authority member to \$125 per meeting and permits compensation for attendance at approved training programs.
- Requires each community school to post on its website the name of each member of its governing authority.
- Requires each community school to provide, upon request, the name and address of each governing authority member to the school's sponsor and the Department.
- Requires each community school sponsor to annually verify that a finding for recovery has not been issued against any governing authority member of that school, any individuals that propose to create the school, the operator, or any employee of the school.

Annual budget

- Beginning with the 2016-2017 school year, requires each community school governing authority to adopt an annual budget by October 31 of each year, with the assistance of the school's designated fiscal officer, and requires the Department to develop a formula for the annual budget.

Fiscal officer

- Requires that the designated fiscal officer of a community school be employed by or engaged under a contract with the school's governing authority.



- Authorizes a community school governing authority to waive the requirement described above, for one year at a time, so long as the school's sponsor approves the waiver.
- Specifies that, if a community school closes, the school's fiscal officer must deliver all financial and enrollment records to the school's sponsor within 30 days of the closure.
- Grants a community school sponsor the right of action against the school's fiscal officer to: (1) compel delivery of all financial and enrollment records of the school if the fiscal officer fails to provide the records in a timely manner and (2) seek recovery of funds owed through a finding of recovery against the fiscal officer.
- Requires the Auditor of State to require the fiscal officer to execute a bond conditioned on the faithful performance of all official duties.

Employment of independent attorney

- Requires the governing authority of a community school to employ an attorney, who must be independent from the school's sponsor or operator, for any services related to the negotiation of the school's contract with the sponsor or operator.
- Requires that each contract between a sponsor and governing authority contain a provision requiring that, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity shall be independent from the operator with which the school has contracted.

Public records and open meetings training

- Requires certain officers and employees of a community school to complete annual training on the Public Records and Open Meetings Laws.

Sponsor monitoring and technical assistance

- Clarifies that it is a sponsor's duty to provide monitoring, oversight, and technical assistance to each school that it sponsors and defines "monitoring, oversight, and technical assistance."
- Requires the Auditor of State to provide written notice to the sponsor regarding audits and requires the sponsor to maintain a presence at all meetings with the Auditor of State, regardless of whether the sponsor has entered into an agreement with an operator to perform all or part of the sponsor's oversight duties.

- Requires that copies of financial and enrollment records be furnished monthly to the sponsor, governing authority members, and fiscal officer.

Selling of goods and services by sponsor

- Prohibits a sponsor from selling goods or services to any community school it sponsors, unless the sponsor is the school district in which the school is located or a state university and sells those goods and services at no profit.

Termination and nonrenewal of sponsor contract

- Moves the deadline, from February 1 to January 15 of the year action will be taken, by which a sponsor that intends to terminate or to not renew the contract of a community school must notify the school in writing.
- Removes a provision for appeal to the State Board of a sponsor's decision to terminate a school's contract due to poor academic performance, poor fiscal management, violation of law or contract, or other good cause.
- Prohibits a community school whose contract is terminated or not renewed for failure to meet student performance requirements or for failure to meet generally accepted standards of fiscal management from entering into a contract with any other sponsor.
- Specifies that nothing in the automatic closure provisions or other provisions of the Revised Code prohibits the sponsor of a community school from exercising its option not to renew a contract for any reason or from terminating a contract prior to its expiration for any reason permitted under continuing law.

Limitations on changing sponsors

- Prohibits certain low-performing community schools from entering into a contract with a new sponsor, unless a request to do so is approved by the Department and the proposed sponsor is rated "effective" or higher or is the Department's Office of Ohio School Sponsorship.

Department approval of sponsors

- Requires all new and renewed agreements between the Department and a sponsor to address the parameters under which the Department can intervene or revoke sponsorship authority, and permits unilateral modification in instances of poor fiscal management and lack of academic progress.



- Modifies the time frames, extension periods, and renewal process for a sponsor's agreement with the Department.
- Requires an entity that was already sponsoring community schools as part of the original community school pilot project ("grandfathered" sponsor) to enter into a written agreement with the Department if it receives a sponsor rating below "effective" for two or more consecutive years.
- Requires an educational service center (ESC) to be approved by the Department before sponsoring a community school, unless the ESC is a "grandfathered" sponsor.
- Permits the Department to renew or extend a sponsor agreement that expires in June 2016, one time only, for up to two years, if the Department has not yet issued a rating for that sponsor.

Sponsor evaluation system

- Specifies that the requirement for the Department to annually rate community school sponsors on prescribed components must begin with the 2015-2016 school year.
- Revises the composition of the student academic performance component and the adherence to quality practices component of the three-part sponsor evaluation system.
- Establishes a new sponsor rating of "poor."
- Requires sponsors to report expenditures to be used in evaluations.
- Permits the Department, for the 2015-2016 school year only, to choose not to assign an overall rating for a sponsor if the sponsor meets certain conditions.
- Maintains the prohibition on using the academic performance of community schools that primarily serve students with disabilities as a factor in a sponsor's rating, but requires such performance to be reported under the evaluation system.
- Eliminates a provision that permitted a sponsor to be rated as "emerging" for the first two years that the entity exists.
- Requires the Department to provide annual training regarding the sponsor evaluation system.

Incentives and penalties for sponsors

- Provides specified incentives for community sponsors based on their annual performance ratings generated under the sponsor evaluation system.
- Prohibits a sponsor that receives an overall rating of "ineffective" from sponsoring any new or additional community schools and subjects such a sponsor to a quality improvement plan.
- Requires revocation of sponsorship authority of "poor" sponsors and sponsors that receive three consecutive ratings of "ineffective."

Direct authorization of community schools

- Permits the Department to establish a format and deadlines to apply for direct authorization of community schools.
- Eliminates a provision that required the Department to approve each application to directly authorize a community school that contained the required information and, instead, gives the Department discretion to approve a certain number of applications per year.
- Requires the Department to adopt criteria for approving an application for direct authorization of a community school.
- Requires the Department to determine if a direct authorization applicant requested and received a recommendation from the district transformation alliance, if that applicant is located in an alliance municipal school district (Cleveland).

Community school operators

- Requires all new and renewed contracts between a governing authority and an operator to include criteria for early termination, notification procedures, and a stipulation of facilities and property ownership.
- Beginning March 31, 2016, requires the Department to maintain and publish an accurate record of the names and identifying information of all operators, and requires each community school to post a copy of any relevant operator contract on its website.
- Requires the Department to develop and publish an annual performance report for all operators of community schools in the state, based on their performance for the previous school year, and requires the report to be made available on the Department's website.



- Eliminates a prescribed appeal procedure when the governing authority of a community school has notified the operator of its intent to terminate or not renew the operator's contract.
- Requires a management company (or operator) that receives more than 20% of the gross annual revenues of a community school to provide a detailed accounting, including the nature and costs of the goods and services it provides to the school, and subjects that information to verification through the auditing process.

Property purchased by operators

- Specifies that personal property purchased with state funds that were paid to an operator or management company for use in operating a community school is property of that school and is not property of the operator or management company.

Internet- or computer-based community schools (e-schools)

- Specifies that an e-school's sponsor is responsible for monitoring the school's compliance with the online learning standards.
- Permits each e-school to provide its students with a location within a 50-mile radius of the student's residence at which the student may receive counseling, instructional coaching, and testing assistance.
- Requires each e-school to keep an accurate record of each individual student's participation in learning opportunities in each day and to offer a student orientation course.
- Requires each e-school to communicate periodically with each student's parent, guardian, or custodian regarding the student's performance and progress and to provide opportunities for parent-teacher conferences.

Blended learning

- Requires a community school sponsor to submit prescribed assurances to the Department if the school will operate using the blended learning model, and requires that same information to be included in the contract between the sponsor and the school's governing authority.

Mergers and consolidations

- Exempts a community school that merges or consolidates into a single public benefit corporation from the requirement to distribute assets as if it were a permanently closed community school, provided that certain conditions are satisfied.



Children's residential centers

- Requires each community school to annually submit to the Department and Auditor of State a report of each instance under which a student who is enrolled in the school resides in a children's residential center.

Conversion school report card data

- Prohibits combining on a school district's state report card data from any district-sponsored dropout conversion community school and requires, instead, an addendum to the district's report card with the ratings and performance measures of that community school.

Civil immunity

- Expands the types of civil liability from which a sponsor or its officers, directors, or employees are exempt.

Bond, cash deposit, or written guarantee

- Removes all references to "surety" for purposes of the bond posted by a community school governing authority prior to initiating the school's operation to pay the cost of a closing audit.
- In lieu of the bond or cash payment guarantee required under continuing law, permits a community school sponsor or operator to provide a written guarantee of payment that obligates the sponsor or operator to pay the costs of a closing audit up to \$50,000.

Membership in STRS and SERS

- Excludes from state retirement system membership certain persons who are employed by community school operators and are subject to Social Security.
- Clarifies that a "faculty member" employed "in" a community school or STEM school is in the State Teachers Retirement System.

Reports and studies

- Extends the deadlines to file various reports regarding community school academic performance, for the 2014-2015 school year only.
- Requires the Department to compile and publish documents that, among other things, identify each community school that has closed during each year and the reason for the closure.



- Requires the State Board to make recommendations to the General Assembly and the Governor regarding (1) performance standards for community schools in which a majority of students are children with disabilities and (2) the feasibility of removing the exemption from permanent closure for such schools with persistent low academic performance.
- Repeals a requirement that the Department present to the House and Senate Education committees a plan that proposes to expand the Department's authority to directly authorize community schools and recommendations for a rating rubric for community school sponsor evaluations.
- Creates a committee to make recommendations to the General Assembly regarding the definition of "quality" for community schools that run a dropout recovery program and the efficacy of a completion or competency-based funding structure for those schools.
- Requires the Department to evaluate the validity and usefulness of the "similar students measure," created by the California Charter Schools Association, to calculate student academic progress for each public school and to submit its findings to the State Board and General Assembly.

Student enrollment status

- For purposes of the student counts used for school funding, permits (rather than requiring as under prior law) a student in any of grades 9-12 to be considered a full-time equivalent student if the student is enrolled in at least five units of instruction per year.

Maximum compensation, district and ESC board members

- Limits the maximum compensation for members of a school district board of education and educational service center governing board to \$5,000 per year.

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CONTENT AND OPERATION

Overview

The act revises the law regarding the sponsorship, governance, and management of community schools and community school employee membership in the state retirement systems. It also requires the Department of Education to study and report to the General Assembly the use of a "similar students measure" to calculate student academic progress based on a regression formula. That measure, if adopted, would apply to all public schools. The act also limits the total annual compensation that a school district or educational service center board member may receive, and it revises the conditions of enrollment status for high school students.

Note, as used in this analysis, the term "Department" refers to the Department of Education and the term "State Board" refers to the State Board of Education.

Background on community schools

Generally

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, may be located in and sponsored by any school district or educational service center 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 (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, or Youngstown), (2) a poorly performing school district as determined by the school's performance index score, value-added progress dimension, or overall ratings



on the state report card, or (3) a school district in the original community school pilot project area (Lucas County).¹

Sponsorship of start-up schools

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 specified conditions;
- (6) A federally tax-exempt entity under specified conditions; or
- (7) The mayor of Columbus for new community schools in the Columbus City School District under specified conditions. However, it does not appear that those conditions have been triggered.²

Direct authorization

The Department's Office of Ohio School Sponsorship is permitted to directly authorize the operation of a limited number of both new and existing community schools, rather than those schools being subject to the oversight of other public or private sponsors. The Office is also authorized to assume the sponsorship of a community school whose contract has been voided due to its sponsor being prohibited from sponsoring additional schools. 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.

¹ R.C. 3314.02(A)(3).

² R.C. 3314.02(C)(1)(a) through (g).



Governance

The term "governing authority" generally refers to a group of individuals selected by the proposing person or group to carry out and ensure the performance of school functions and the contract entered into with the sponsor of the community school. Under continuing law, the governing authority of each start-up school must consist of a board of not less than five individuals. No individual may serve on more than five governing authorities at the same time.³

Operators

The term "operator" is defined by continuing law as either of the following:

- An individual or organization that manages the daily operations of a community school pursuant to a contract between the operator and the school's governing authority; or
- A nonprofit organization that provides programmatic oversight and support to a community school under a contract with the governing authority and that retains the right to terminate its affiliation with the school if the school fails to meet the organization's quality standards.⁴

Many, but not all, community school governing authorities contract with operators to run the day-to-day operations of their schools. A school's contract with the operator is separate from the school's contract with its sponsor.

Sponsor and governing authority contract

Each contract entered into between a community school sponsor and governing authority must contain statutorily prescribed statements, descriptions, or assurances. The act makes the following changes regarding what must be included in a contract:

(1) Clarifies that the performance standards the sponsor will use to evaluate the school must include all applicable state report card measures;

(2) Removes a requirement that the "location" of the school's facilities be included in the contract and, instead, requires an addendum to the contract that contains a detailed description of each facility used for instructional purposes, the annual costs associated with leasing each facility that are paid by or on behalf of the school, the annual mortgage principal and interest payments that are paid by the school, and the

³ R.C. 3314.02(E).

⁴ R.C. 3314.02(A)(8).



name of the lender or landlord identified as such and the lender's or landlord's relationship to the operator;

(3) Requires that the school's attendance and participation policies be available for public inspection;

(4) Requires that the school's attendance and participation records be made available to the Department, the Auditor of State, and the sponsor to the extent permitted by federal and state student privacy law;

(5) Requires that all moneys the school's operator loans to the school, including facilities loans or cash flow assistance, must be accounted for, documented, and bear interest at a fair market rate; and

(6) Requires inclusion of certain information about blended learning programs (see below).⁵

Internal financial controls

The act requires that when a community school submits to the sponsor its comprehensive plan, as required by continuing law, the school also must submit copies of all policies and procedures regarding internal financial controls adopted by the governing authority.⁶

Governing authority members

Qualifications

In addition to the limitations on governing authority membership under continuing law, the act provides that no employee of a school district or educational service center (ESC) may serve on the governing authority of any community school sponsored by that district or ESC.⁷ It further prohibits a governing authority member from being a member of a school district board of education and, conversely, prohibits a district board member from being a governing authority member.⁸

Moreover, the act prohibits the following from serving on a governing authority:
(1) a person who would otherwise be subject to refusal, limitation, or revocation of a

⁵ R.C. 3314.03(A)(4), (9), and (27) to (30).

⁶ R.C. 3314.03(B).

⁷ R.C. 3314.02(E)(6).

⁸ R.C. 3313.131 and 3314.02(E)(8).



license to teach, if the person were a licensed educator, (2) a person who has pleaded guilty to or has been convicted of theft in office, and (3) a person who has not submitted to a criminal records check. The act also prohibits any person who has not submitted to a criminal records check from engaging in the financial day-to-day management of the community school.⁹

The act requires each governing authority member to file an annual disclosure of the names of immediate relatives or business associates employed by any of the following within the previous three years:

- (1) The sponsor or operator of the school;
- (2) A school district or ESC that has contracted with the school; or
- (3) A vendor that is or has engaged in business with the school.¹⁰

Compensation

The act reduces, from \$425 to \$125, the maximum compensation that a member of the governing authority of a start-up community school may receive per meeting of each governing authority on which the member serves. It maintains the pre-existing \$5,000 annual cap for all governing authorities on which the member serves. It then applies the per-meeting and per-year caps to members of governing authorities of conversion community schools. Prior law did not address compensation of conversion community school governing authority members.

Governing Authority Member Maximum Compensation		
School Type	Prior Law	The Act
Start-up community school	\$425 per meeting of each governing authority on which the person serves \$5,000 annually for all governing authorities on which the person serves	\$125 per meeting of each governing authority on which the person serves \$5,000 annually for all governing authorities on which the person serves
Conversion community school	Not specified	Same as for start-up community schools

⁹ R.C. 3314.02(E)(2)(a) and (b).

¹⁰ R.C. 3314.02(E)(7).



The act also authorizes compensation of a member of the governing authority of a start-up or conversion community school for attending an approved training program. That compensation cannot exceed \$60 per day for a program of up to three hours or \$125 a day for a program longer than three hours.¹¹

Names and addresses of members

The act requires each community school to post on its website the name of each member of the school's governing authority. It also requires each school to provide, upon request, the name and address of each governing authority member to the school's sponsor and the Department.¹²

Verification of no finding for recovery

The act requires each community school sponsor to annually verify that a finding for recovery has not been issued by the Auditor of State against any member of the school's governing authority, any individual or individuals that propose to create the school, or the operator, or any employee of the school.¹³

Annual budget

Under the act, beginning with the 2016-2017 school year, each governing authority, with the assistance of the school's designated fiscal officer, must adopt an annual budget for the community school by October 31 of each year.¹⁴

The Department must develop a format for annual budgets of community schools. That format must prescribe inclusion of the following information:

- Administrative costs for the community school as a whole;
- Instructional services costs for each category of service provided directly to students, compiled and reported in terms of average expenditure per pupil receiving the service;
- The cost of instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia aide, or librarian, provided directly to students;

¹¹ R.C. 3314.02(E)(5).

¹² R.C. 3314.035.

¹³ R.C. 3314.02(E)(2)(c).

¹⁴ R.C. 3314.032(C).

- The cost of administrative support services, such as the cost of personnel that develop the curriculum and the cost of personnel supervising or coordinating the delivery of the instructional services;
- The cost of support or extracurricular services costs for services directly provided to students;
- The cost of services provided directly to students by a nonlicensed employee related to support or extracurricular services, such as janitorial services, cafeteria services, or services of a sports trainer; and
- The cost of administrative services related to support or extracurricular services, such as the cost of any licensed or unlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of services.

Although the budget developed with the fiscal officer's assistance, the act also specifies that the governing authority is the sole entity responsible for the adoption of the budget.¹⁵

Fiscal officer

Under continuing law, each community school must have a designated fiscal officer. The act specifies that fiscal officer must be employed by, or engaged under a contract with, the school's governing authority.¹⁶

However, the act also permits a governing authority, for one year at a time, to waive the requirement to directly employ or engage the fiscal officer. To do so, the governing authority must adopt a resolution for each year it wishes to waive the requirement, which must be approved by the school's sponsor. If the governing authority adopts such a resolution, the school's fiscal officer must annually meet with the governing authority to review the school's financial status. A copy of each resolution must be submitted by the governing authority to the Department. The act explicitly states that such a resolution *does not* waive the underlying requirement for a community school to have a designated fiscal officer.¹⁷

¹⁵ R.C. 3314.032(D).

¹⁶ R.C. 3314.011(A).

¹⁷ R.C. 3314.011(D).

Delivery of records upon closure

The act specifies that, if a community school closes, the school's fiscal officer must deliver all financial and enrollment records to the school's sponsor within 30 days after the closure. If the fiscal officer fails to provide the records in a timely manner, or fails to faithfully perform any other duties, the act grants the sponsor a right of action against the fiscal officer to compel delivery of all financial and enrollment records of the school. It also permits the sponsor to seek recovery of any funds owed as a result of any finding of recovery by the Auditor of State against the fiscal officer.¹⁸

Fiscal officer bond

The act requires the Auditor of State to require that the fiscal officer of any community school, before performing duties as fiscal officer, execute a bond in an amount and with surety to be approved by the governing authority of the school, payable to the state, conditioned for the faithful performance of all official duties required of the fiscal officer.¹⁹ Under prior law, this provision was permissive on the part of the Auditor of State.

Employment of independent attorney

The act requires the governing authority of a community school to employ an attorney, who must be independent from the school's sponsor or operator, for any services related to the negotiation of the school's contract with its sponsor or an operator.²⁰

It further requires that each contract between the sponsor and a governing authority must contain a provision requiring that, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity must be independent from the school's operator.²¹

Public records and open meetings training

The act requires the following individuals to complete training annually on the Public Records and Open Meetings Laws, so that they may comply with their continuing obligations under those laws:

¹⁸ R.C. 3314.023.

¹⁹ R.C. 3314.011(B).

²⁰ R.C. 3314.036.

²¹ R.C. 3314.03(A)(31).



- (1) The members of the governing authority of a community school;
- (2) The designated fiscal officer of the school;
- (3) The chief administrative officer and other administrative employees of the school; and
- (4) All individuals performing supervisory or administrative services for the school under a contract with the operator of the school.²²

Sponsor monitoring and technical assistance

The act clarifies that it is a community school sponsor's duty to provide monitoring, oversight, and technical assistance to each school it sponsors. For that purpose, the act specifies that "monitoring, oversight, and technical assistance" include the following:

- (1) Monitoring the community school's compliance with all laws that apply to the school and with the terms of the sponsorship contract;
- (2) Monitoring and evaluating at least annually the school's academic and fiscal performance using the requirements stated in the sponsorship contract, state report card results, and any other analysis conducted by the Department;
- (3) Monitoring and evaluating at least annually the school's organization and operation;
- (4) Reporting annually the results of the sponsor evaluation to the Department and to the parents of the school's students;
- (5) Providing technical assistance to the community school in complying with laws and terms of the contract;
- (6) Taking steps to intervene in the school's operation to correct problems in the school's overall performance, declaring the school to be on probationary status, suspending the school's operation, or terminating the school's contract as determined necessary by the sponsor;
- (7) Having in place a plan of action to be undertaken if the community school experiences financial difficulties or closes prior to the end of a school year; and

²² R.C. 3314.037.

(8) Other activities specifically designed to benefit the community school.²³

Communication with Auditor of State

The act requires the sponsor of a community school to communicate with the Auditor of State regarding an audit of the school or the condition of financial and enrollment records of the school. Additionally, the sponsor must maintain a presence at any and all meetings with the Auditor of State regardless of whether the sponsor has entered into an agreement with another entity to perform all or part of the sponsor's oversight duties. The Auditor of State must provide written notice to the sponsor regarding any action taken against or upcoming audits of the community school.²⁴

Financial and enrollment records

Under continuing law, the sponsor of each community school must meet with the school's governing authority or fiscal officer to review the school's financial and enrollment records at least once every month. The act further requires that copies of those records be furnished monthly to the sponsor, operator, each member of the governing authority, and the fiscal officer.²⁵

Selling of goods or services by sponsor

The act prohibits the sponsor of a community school from selling any goods or services to that school, unless the sponsor is the school district in which the community school is located or a state university and sells the goods or services at no profit to the sponsor. The sponsor is not required to comply with this requirement with respect to any contract involving the sale of goods or services entered into prior to February 1, 2016, until that contract expires.²⁶

Termination and nonrenewal of sponsor contract

The act revises the deadline by which a sponsor must notify a community school of the sponsor's intention to terminate or to not renew the school's contract. It moves that date from February 1 to January 15 of the year in which the sponsor intends to terminate or not renew.²⁷

²³ R.C. 3314.023(A) to (G).

²⁴ R.C. 117.105 and 3314.019.

²⁵ R.C. 3314.023.

²⁶ R.C. 3314.46.

²⁷ R.C. 3314.07(B)(3).



The act also eliminates a provision for appeal to the State Board of a sponsor's decision to terminate a contract for failure to meet student performance, failure to meet generally accepted standards of fiscal management, violation of law or the contract, or other good cause.²⁸

Furthermore, the act prohibits any community school whose contract is terminated or not renewed for failure to meet student performance requirements or failure to meet generally accepted standards of fiscal management from entering into a new contract, but it removes the prior prohibition on entering into new contracts for schools whose contracts are terminated for other reasons.²⁹

The act specifies that nothing in the automatic closure provisions or other provisions of the Revised Code prohibits a sponsor from exercising its option not to renew for any reason, or from terminating a contract prior to its expiration for failure to meet student performance, failure to meet generally accepted standards of fiscal management, violation of law or the contract, or other good cause. In other words, a community school may not use as a defense to termination or nonrenewal of a contract the fact that the school has not met the statutory criteria for automatic closure.³⁰

Limitations on changing sponsors

The act places restrictions on how lower-performing community schools may change sponsors. Those restrictions apply to any community school for which either of the following conditions is true:

(1) The community school has received a grade of "D" or "F" for the performance index score and an overall grade of "D" or "F" for the value-added progress dimension, or another measure of student academic progress if adopted by the State Board, on the most recent state report card issued for the school.

(2) The community school primarily operates a dropout prevention and recovery program, and it has received a rating of "does not meet standards" for the annual student growth measure and combined graduation rates on the most recent state report card issued for the school.³¹

²⁸ R.C. 3314.07(B)(4).

²⁹ R.C. 3314.07(B)(5).

³⁰ R.C. 3314.35(D) and 3314.351(E).

³¹ R.C. 3314.034(A).

If either of those conditions applies, the school may enter into a contract with a new sponsor only if all of the following conditions are also satisfied:

(1) The proposed sponsor received a rating of "effective" or higher on its most recent evaluation (see "**Sponsor evaluation system**" below) or the proposed sponsor is the Department's Office of Ohio School Sponsorship;

(2) The community school submits a request to enter into a new contract to the Department;

(3) The community school has not submitted a prior request to change sponsors that was granted; and

(4) The Department grants the school's request.³²

Procedures

The act prescribes the following procedures by which applications for changing sponsors must be submitted and reviewed:

(1) A school must submit a request by February 15 of the year in which the school wishes to change sponsors.

(2) The Department must grant or deny the request not later than 30 days after it receives it.

(3) If the Department denies the request, the community school may submit an appeal to the State Board. The school must file its notice of appeal to the State Board not later than ten days after receiving the denial from the Department.

(4) The State Board must conduct an administrative hearing not later than 30 days after receiving the school's notice of appeal. The State Board must act on the hearing officer's determination by June 25 of the year in which the school wishes to change sponsors.³³

Factors to be considered during an appeal hearing include, but are not limited to:

(1) The school's impact on the students and the community or communities it serves;

³² R.C. 3314.034(B).

³³ R.C. 3314.034(C).



(2) The quality and quantity of academic and administrative support the school receives from its current sponsor to help the school to improve;

(3) The sponsor's annual evaluations of the school for the previous three years;

(4) The school's academic performance, taking into account the demographic information of its students;

(5) The academic performance of alternatives schools that serve comparable populations of students;

(6) The school's fiscal stability;

(7) The results of any audits of the school by the Auditor of State;

(8) The length of time the school has been under the oversight of its current sponsor;

(9) The number of the times the school has previously changed sponsors; and

(10) Parent and student satisfaction rates as demonstrated by surveys, if available.³⁴

Department approval of sponsors

The act requires all entities, except for "grandfathered" entities (see below) to receive approval from the Department to sponsor community schools. This includes the authority to enter into preliminary agreements (as required by continuing law) and to renew contracts (as added by the act). Additionally, on and after July 1, 2017, each entity that sponsors a community school, other than "grandfathered" sponsors, must attain approval from the Department to continue sponsoring schools, regardless of whether that entity intends to enter into a preliminary agreement or renew an existing contract.³⁵

Under the act, all new and renewed agreements between the Department and a sponsor must contain specific language addressing the parameters under which the Department can intervene and potentially revoke sponsorship authority in the event that the sponsor is unwilling or unable to fulfill its obligations. Furthermore, each agreement must set forth any territorial restrictions and limits on the number of schools that entity may sponsor, provide for an annual evaluation process, and include a

³⁴ R.C. 3314.034(D).

³⁵ R.C. 3314.015(B)(1).

stipulation permitting the Department to modify the agreement in the case of poor fiscal management and lack of academic progress.³⁶

The act also decreases the initial term of a sponsor's agreement with the Department from seven years to five years, and removes a provision permitting a continuous one-year extension for sponsors that are not in the lowest 20% of sponsors statewide or are rated as "exemplary" or "effective." Instead, it establishes a new renewal process, for a term of up to ten years, based on the academic performance of students enrolled in the sponsor's schools, the sponsor's adherence to quality practices, and the sponsor's compliance with laws and administrative rules.³⁷

Pilot project sponsors ("grandfathered" sponsors)

If an entity that was already sponsoring community schools as of April 8, 2003, as part of the original community school pilot project, receives a sponsor rating below "effective" for two or more consecutive years, the act requires it to enter a written agreement with the Department prior to entering any further preliminary agreement or renewing any existing contract to sponsor a community school.³⁸

Educational service centers

H.B. 64 of the 131st General Assembly required *any* educational service center (ESC) that sponsors a community school to be approved by and enter an agreement with the Department under the same terms and conditions as other community school sponsors. The act delays this requirement until July 1, 2017. It also exempts "grandfathered" ESC sponsors from the requirement, unless rated below "effective" for two of more consecutive years (see above).³⁹

Actions without a hearing

The act specifies that the Department may take any action permitted or required under the written agreement between the Department and a sponsor without a hearing in the event that the sponsor is unwilling or unable to fulfill its obligations.⁴⁰

³⁶ R.C. 3314.015(B)(1).

³⁷ R.C. 3314.015(B)(2).

³⁸ R.C. 3314.021 and 3314.027.

³⁹ R.C. 3314.02(B)(2).

⁴⁰ R.C. 3314.015(I).

One-time renewal of sponsorship agreement

The act permits the Department to renew or extend an agreement between a sponsor and the Department that expires in June of 2016, one time only, for up to two years, if the Department has not yet issued a rating for the sponsor under the sponsor evaluation system (described below).⁴¹

Sponsor evaluation system

Continuing law, effective January 2015, requires the Department to develop and implement an evaluation system that rates each community school sponsor. Under this system, each sponsor receives an annual rating based on a combination of three components: (1) the academic performance of students enrolled in community schools that it sponsors, (2) the sponsor's adherence to quality practices, which must be specified by the Department, and (3) the sponsor's compliance with laws and administrative rules as measured by standards adopted by rule of the State Board.⁴² It replaced a former system that ranked sponsors based on composite performance index scores. The act makes several changes to this new rating system.

Ratings start with 2015-2016 school year

The act specifies that the new three-part rating system begins with the 2015-2016 school year.⁴³

Student academic performance component

The act makes the following revisions to the student academic performance component:

(1) Specifies that the academic performance component must be derived from the performance measures that comprise the state report card and must be based on the performance of the schools for the school year for which the evaluation is conducted;

(2) Specifies that the academic performance component must include year-to-year changes in the "overall sponsor portfolio"; and

(3) Requires the Department, if a community school does not have graded report card performance measures or if such measures are unavailable, to use other

⁴¹ Section 8.

⁴² R.C. 3314.016(B)(1)(a) to (c).

⁴³ R.C. 3314.016(B)(1).



performance measures specified in the contract between the community school and sponsor to determine the student academic performance component.⁴⁴

Adherence to quality practices component

The act revises the adherence to quality practices component by authorizing the Department, for a sponsor that was rated "exemplary" or "effective" on its most recent rating, to evaluate that sponsor's adherence to quality practices once over a period of three years. If that authority is exercised, the most recent rating for a sponsor's adherence to quality practices must be used when determining an annual overall rating.⁴⁵

The act also limits the peer reviewers, which are authorized to review a sponsor's adherence to quality practices, to individuals employed by sponsors that were rated "exemplary" or "effective" on their most recent rating.⁴⁶

New "poor" rating

Under continuing law, a sponsor may be rated "exemplary," "effective," or "ineffective." The act adds a fourth rating of "poor" for the lowest-rated sponsors.

Report of expenditures for use in sponsor evaluations

Under the act, beginning with the 2016-2017 school year, each sponsor must submit by August 15 of each year a report to the Department describing the amount and type of expenditures made to provide monitoring, oversight, and technical assistance to the community schools it sponsors. The report also must be submitted to the school's governing authority. The report *must* be used by the Department when evaluating a sponsor's compliance with laws and administrative rules and *may* be used as a factor when evaluating a sponsor's adherence to quality practices.⁴⁷

The Department must establish a procedure for these reports that includes at least the following types of expenditures: (1) employee salaries, wages, benefits, and other compensation, (2) all purchased or contracted services, (3) materials and supplies, (4) equipment, furniture, and fixtures, (5) facilities, and (6) other expenditures.⁴⁸

⁴⁴ R.C. 3314.016(B)(1)(a).

⁴⁵ R.C. 3314.016(B)(1)(b).

⁴⁶ R.C. 3314.016(B)(4)(a).

⁴⁷ R.C. 3314.025(A) and (C).

⁴⁸ R.C. 3314.025(B).



One-year waiver of overall rating for certain sponsors

The act permits the Department, for the 2015-2016 school year only, to choose not to assign an overall rating for a sponsor if (1) the sponsor is a school district, (2) at least one of its sponsored schools is a conversion community school that primarily runs a dropout prevention and recovery program, and (3) at least one of its sponsored schools, for the 2013-2014 school year, received a report card rating of either "meets standards" or "exceeds standards" for the four- and five-year cohort graduation rate.⁴⁹

Miscellaneous changes

The act also makes the following miscellaneous changes to the sponsor evaluation system:

(1) Maintains the prohibition on using the academic performance of community schools that primarily serve students with disabilities as a factor when determining a sponsor's rating, but requires such performance to be reported under the evaluation system;

(2) Eliminates a provision that permitted a sponsor to be rated "emerging" for its first two years; and

(3) Requires the Department to provide annual training regarding the sponsor evaluation system. The training must describe methodology, timelines, and data of the system. The first training session must occur by March 2, 2016 (30 days after the act's effective date).⁵⁰

Incentives for "exemplary" sponsors

The act permits sponsors with "exemplary" ratings for two or more consecutive years to take advantage of specific incentives. Those incentives are:

(1) The ability to extend the term of the contract between the sponsor and the governing authority beyond the term described in the written agreement the sponsor has with the Department;

(2) An exemption from the preliminary agreement and contract adoption and execution deadline requirements under continuing law. (Otherwise, a community school governing authority and sponsor must adopt their contract by March 15 and

⁴⁹ Section 7.

⁵⁰ R.C. 3314.016(B)(2) and (6).



must sign it by May 15 prior to the school year in which the school will open for operation.)

(3) An exemption from the automatic contract expiration requirement, should a new community school fail to open by September 30 of the calendar year in which the community school contract is executed, as otherwise provided under continuing law;

(4) No limit on the number of community schools it may sponsor; and

(5) No territorial restrictions on sponsorship.⁵¹

Also, the act permits an entity to continue to sponsor any community schools with which it entered into agreements pursuant to the incentives described in (4) and (5) above, even if the entity later receives a lower overall rating.⁵²

Finally, an "exemplary" sponsor that continues to meet the sponsor requirements under continuing law may renew its written agreement with the Department for a term of up to ten years.⁵³

Penalties for low-performing sponsors

The act specifies several consequences that may be applied to a sponsor based on its rating. First, it prohibits a sponsor with an overall rating of "ineffective" from sponsoring any new or additional community schools. These sponsors are also subject to a quality improvement plan based on correcting the deficiencies that led to the "ineffective" rating, with timelines and benchmarks that have been established by the Department.⁵⁴

Second, the act requires revocation of the sponsorship authority of (1) a sponsor with an overall rating of "poor" and (2) a sponsor with three consecutive overall ratings of "ineffective." However, within 30 days after receiving the triggering rating, the sponsor may appeal the revocation to the Superintendent of Public Instruction, who must conduct an administrative hearing on the matter. The hearing must be conducted within 30 days after receipt of the appeal notice, and it must be conducted by an independent hearing officer who is appointed by the state Superintendent. Within 45 days after the hearing is completed, the State Board must determine whether the

⁵¹ R.C. 3314.016(B)(7)(a)(ii) to (vi).

⁵² R.C. 3314.016(B)(7)(a).

⁵³ R.C. 3314.015(B)(2)(a) and 3314.016(B)(7)(a)(i).

⁵⁴ R.C. 3314.016(B)(7)(b).



revocation is appropriate based on the hearing and, if determined appropriate, confirm the revocation.⁵⁵

Department sponsorship of schools of revoked sponsors

If a sponsor's authority is revoked, as described above, the Department's Office of Ohio School Sponsorship must assume sponsorship of the sponsor's schools for the remainder of that school year. The Office may continue sponsorship until the earlier of the expiration of two school years from revocation or a new sponsor is selected by the school's governing authority. The schools sponsored by the Office in this manner do not apply to the Office's limit on the number of directly authorized community schools.⁵⁶

Direct authorization of community schools

The act revises the law regarding applications for direct authorization of community schools by the Department's Office of Ohio School Sponsorship. First, it permits the Department to establish a format and deadlines for direct authorization applications.⁵⁷ Second, the act eliminates a provision that generally required the Department to approve each application that contained the required information. Instead, the act permits the Department to approve or deny an application taking into consideration standards for quality authorization, financial constraints, or other criteria the Department adopts. The Department must adopt those criteria by April 1, 2016. The Department also must assign each applicant with a rating to aid in making approval decisions. Finally, the Department must annually publish on its website the criteria it uses to approve or deny applications.⁵⁸

Transformation alliance

The act prohibits the Department from approving a direct authorization application for a community school in an alliance municipal school district, unless the Department (1) approves the application using the criteria it adopts for all applicants and (2) has determined that the applicant has requested and received a recommendation from the district's transformation alliance. (Currently, the only alliance municipal school district is the Cleveland Municipal School District).⁵⁹

⁵⁵ R.C. 3314.016(B)(7)(b)(ii) and (B)(7)(c).

⁵⁶ R.C. 3314.016(D); see also R.C. 3314.029.

⁵⁷ R.C. 3314.029(A)(1).

⁵⁸ R.C. 3314.029(B)(2).

⁵⁹ R.C. 3314.029(A)(5); see R.C. 3311.86 and 3311.87, neither in the act.



Community school operators

Operator contracts

The act requires that any contract between a community school governing authority and an operator entered into or renewed on or after February 1, 2016, must include at least the following:

- (1) Criteria to be used for early termination of the operator contract;
- (2) Required notification procedures and a timeline for early termination or nonrenewal of the operator contract;
- (3) A stipulation of which entity owns all community school facilities and property including, but not limited to, equipment, furniture, fixtures, instructional materials and supplies, computers, printers, and other digital devices purchased by the governing authority or operator.⁶⁰

The stipulation regarding property ownership must comply with the act's requirement that personal property purchased with state funds is property of the school (see "**Property purchased by operators**," below).⁶¹

Commercially reasonable leasing by operators

The act prohibits a community school's operator from leasing any parcel of real property to that school until an independent professional in the real estate field verifies via addendum that, at the time the lease was agreed to, the lease was commercially reasonable. Under the act, the independent professional is immune from civil liability for any decision rendered.⁶²

Record of names and identities of operators

Beginning March 31, 2016, the act requires the Department to maintain and annually publish an accurate record of the names and identifying information of all entities that have entered into operator contracts with community schools. The Department must receive from the governing authority of each community school a copy of the operator contract and post it on its website.⁶³

⁶⁰ R.C. 3314.032(A).

⁶¹ R.C. 3314.032(A) and 3314.0210.

⁶² R.C. 3314.032(B).

⁶³ R.C. 3314.031(A).



Operator performance ratings

The act requires the Department to develop and publish an annual report on operator performance for all operators of community schools in the state, which must be made available on the Department's website. Beginning in 2016, the Department must publish the report by November 15 based on the operators' performance for the previous school year. The Department must include this report in its annual report on the effectiveness and the financial condition of all community schools and on the performance of community school sponsors, issued under continuing law.⁶⁴

Elimination of appeal procedures for termination of operator contract

The act repeals a statute that prescribed a procedure for an operator to appeal to the State Board a governing authority's decision to terminate or not renew the operator's contract.⁶⁵

Account of operator costs and services

The act requires any management company (or operator) that receives more than 20% of the annual gross revenues of a community school to provide a detailed accounting, including the nature and costs of goods and services it provides to the community school. The detailed accounting, under the act, must be reported using the following categories of expenses:⁶⁶

- (1) Aggregate salaries and wages;
- (2) Aggregate employee benefits;
- (3) Professional and technical services;
- (4) Property services;
- (5) Utilities;
- (6) Contracted craft or trade services;
- (7) Tuition paid to other districts;
- (8) Transportation;

⁶⁴ R.C. 3314.031(B) and (C); see R.C. 3314.015(A)(4).

⁶⁵ Repealed R.C. 3314.026.

⁶⁶ R.C. 3314.024(B).



- (9) Other purchased services;
- (10) Supplies;
- (11) Land;
- (12) Buildings;
- (13) Improvements other than buildings;
- (14) Equipment;
- (15) All other capital outlay;
- (16) Principal;
- (17) Interest;
- (18) Judgments; and
- (19) Other direct and indirect costs.

The expenses enumerated above must be disaggregated according to the following designations:⁶⁷

- (1) Regular instruction;
- (2) Special instruction;
- (3) Vocational instruction;
- (4) Other instruction;
- (5) Support services; and
- (6) Noninstructional activities.

The act provides that this information, during the school's regular financial audit, is subject to verification through examination of community school records.

Under prior law, a detailed accounting of services, including the nature and cost, without specificity, was to be included in the footnotes of the financial statements of the school and subject to audit.

⁶⁷ R.C. 3314.024(C).

Property purchased by operators

The act specifies that furniture, computers, software, equipment, or other personal property purchased with state funds that were paid to an operator or management company for use in operating a community school is property of that school and is not property of the operator or management company. It also requires that such property must be distributed in accordance with continuing law whenever a community school closes and ceases its operation. That law prioritizes distribution of a school's remaining assets first to the state retirement systems, then to employees, and then other creditors. To the extent possible, state-purchased computers are to be turned over to the Department for redistribution.⁶⁸

Internet- or computer-based community schools (e-schools)

Under continuing law, an "Internet- or computer-based community school" (e-school) is a community school in which the students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided by way of (1) an Internet- or other computer-based instructional method that does not rely on regular classroom instruction or (2) "comprehensive instructional methods" that include Internet-based, other computer-based, and noncomputer-based learning opportunities, unless a student receives career-technical education.⁶⁹ The act makes several changes to the law regarding e-schools.

First, the act specifies that the sponsor of each e-school is responsible for monitoring, ensuring, and reporting the school's compliance with the online learning standards prescribed by continuing law (see also "**Sponsor monitoring and technical assistance**," above).⁷⁰

Next, it permits each e-school to provide its students with a location within a 50-mile radius of the student's residence at which the student may receive counseling, instructional coaching, and testing assistance.⁷¹

The act also requires each e-school to keep an accurate record of each individual student's participation in learning opportunities each day. That record must be kept in such a manner that the information within it can be easily submitted to the Department, upon request by the Department or the Auditor of State. Continuing law limits an

⁶⁸ R.C. 3314.0210; see R.C. 3314.015(E) and 3314.074.

⁶⁹ R.C. 3314.02(A)(7).

⁷⁰ R.C. 3314.23(C).

⁷¹ R.C. 3314.251.



e-school student to not more than ten hours of learning opportunities in any 24-hour period.⁷²

Student orientation

The act requires each e-school to offer a student orientation course, and to notify each student of that offering. The Department must provide guidance to e-schools for developing and delivering the orientation course.⁷³

Parental notice and involvement

The act requires that each e-school, periodically throughout each school year, communicate with each student's parent, guardian, or custodian regarding the student's performance and progress. The e-school also must provide opportunities for parent-teacher conferences, document the school's request for conferences, and may permit the student to participate in the conferences. Those conferences may be by electronic means.⁷⁴

Finally, the act permits an e-school, at the time of a particular student's enrollment, to ask the student's parent or guardian to estimate the length of time the student will attend the school. Any information collected under this provision must be included in the aggregate in the school's annual report required under continuing law.⁷⁵

Blended learning

The act requires the sponsor of each community school that operates using the "blended learning" method to annually provide to the Department, not later than ten business days prior to the school's opening, assurance that the sponsor has reviewed the following information submitted by the school:

- (1) An indication of what blended learning model or models will be used;
- (2) A description of how student instructional needs will be determined and documented;
- (3) The method to be used for determining competency, granting credit, and promoting students to a higher grade level;

⁷² R.C. 3314.27.

⁷³ R.C. 3314.271(A) and (B).

⁷⁴ R.C. 3314.271(D).

⁷⁵ R.C. 3314.271(C); see also R.C. 3314.03(A)(11)(g).



(4) The school's attendance requirements, including how it will document participation in learning opportunities;

(5) A statement describing how student progress will be monitored;

(6) A statement describing how private student data will be protected; and

(7) A description of the professional development activities that will be offered to teachers.⁷⁶

Each contract between the sponsor and governing authority must contain the information described in (1) through (7).⁷⁷

Continuing law defines "blended learning" as the delivery of instruction in a combination of time in a supervised physical location away from home and online delivery whereby the student has some element of control over time, place, path, or pace of learning. Community schools, as well as school districts and other types of public and private schools, are specifically authorized by continuing law to operate all or part of a school using a blended learning model. The continuing law also states that an Internet- or computer-based community school is "not a blended learning school."⁷⁸

Mergers and consolidations

Under the act, a community school that merges or consolidates into a single public benefit corporation is exempt from the requirement to distribute assets as if it were a permanently closed community school, provided the governing authority of the community school created by the merger or consolidation enters into a sponsor contract with an entity rated as "effective" or higher.⁷⁹

Students in children's residential centers

The act requires each community school to annually submit to the Department and Auditor of State a report of each instance under which a student who is enrolled in that school resides in a children's residential center. A children's residential center is a facility that is operated by a private child placing agency, private noncustodial agency, or public children services agency, that has been certified by the Department of Job and Family Services to operate a children's residential center, and in which 11 or more

⁷⁶ R.C. 3314.19.

⁷⁷ R.C. 3314.03(A)(29).

⁷⁸ R.C. 3301.079(K)(1) and 3302.41, neither in the act.

⁷⁹ R.C. 3314.074(D).



children, including the children of any staff residing at the facility, are given nonsecure care and supervision 24 hours a day.⁸⁰

Conversion school report card data

Continuing law permits the combining of state report card data for certain kinds of community schools with that of their sponsoring school districts. The act outright prohibits the combining of data from any conversion community school that a district sponsors, if a majority of the students are enrolled in a dropout prevention and recovery program. Instead, it requires the Department to include the ratings and performance measures of the school as an addendum to the district's report card. The addendum must include the school's scores for at least (1) the four-year graduation rate, (2) the percentage of 12th grade students scoring proficient on high school state assessments, and (3) the annual measurable objectives.⁸¹

Civil immunity

The act expands the types of civil liability from which a sponsor or its officers, directors, or employees are exempt, to include harm allegedly rising from failure of the community school to meet the obligations of any contract or other obligation entered into on behalf of the community school and another party. Continuing law already affords civil immunity for harm allegedly arising from failure of the school to perform any statutory or common law duty or other legal obligation and for an act or omission of the school or its officers, directors, or employees that results in harm.⁸²

Bond, cash deposit, or written guarantee

Under prior law, in order to cover the cost of a closing audit, a community school could not open for operation unless the governing authority first either: (1) posted a "surety" bond in the amount of \$50,000 with the Auditor of State or (2) deposited with the Auditor of State \$50,000 cash as a guarantee of payment. The act substantially maintains this requirement, but it makes several changes to it.

First, it removes all references to "surety" in regard to the bond that may be posted.

Second, it permits a community school sponsor or operator to provide a written guarantee of payment, in lieu of a bond or cash deposit, that obligates the sponsor or

⁸⁰ R.C. 3314.038; see R.C. 5103.05(A)(1), not in the act.

⁸¹ R.C. 3302.03(I); see also R.C. 3314.017(C).

⁸² R.C. 3314.07(E).

operator to pay up to \$50,000 toward the costs of a closing audit. The act specifies that any such written guarantee is binding on any successor entity that contracts to sponsor or operate the school. If a sponsor or operator has provided a written guarantee and, later, the school's governing authority posts a bond or the governing authority, sponsor, or operator provides a cash deposit of \$50,000, the written guarantee is cancelled.

Third, the act specifically prohibits a community school from maintaining or continuing its operations absent the ongoing provision of a bond, cash deposit, or written guarantee.

Finally, the act provides procedures for administration of this provision by the Department, the Auditor of State, and the Treasurer of State.⁸³

Membership in STRS and SERS

The act excludes from the State Teachers Retirement System (STRS) or School Employees Retirement System (SERS) a community school employee who is hired after a particular date (as described below), or rehired after employment termination, if the school has an operator and the operator pays Social Security taxes on the employee's behalf.

Under prior law, community school employees had to contribute to either STRS or SERS, even if the community school's governing board contracts with an operator to run the school. The U.S. Internal Revenue Service has stated that employees of private operators are not public employees and, therefore, are subject to Social Security.⁸⁴ The result was that those employees, and their employers, had to contribute to both Social Security and STRS or SERS.

STRS membership

Under the act, certain community school teaching employees are included in STRS and others are excluded. The act includes in STRS membership any person who is a teacher to whom all of the following apply:

- The person is employed by a community school operator;
- The operator withholds and pays Social Security taxes on the person's behalf;

⁸³ R.C. 3314.50.

⁸⁴ Internal Revenue Service letter to National Heritage Academy, May 20, 2015, available as an attachment to www.cleveland.com/metro/index.ssf/2015/10/whose_pension_changes_under_ohios_new_charter_school_reform_law_details_are_emerging.html.

--The person had contributing service in a community school in Ohio within one year preceding the later of July 1, 2016, or the date on which the operator for the first time withholds and pays Social Security taxes for that person.

The act excludes from STRS membership any person not described above for whom a community school operator withholds and pays Social Security taxes, if the person is employed as a teacher or terminates employment with an operator and has no contributing service in a community school in Ohio for at least one year from the date of terminating employment.⁸⁵

SERS membership

The act specifies which nonteaching community school employees are included in SERS membership and which are excluded. It excludes both of the following:

--Any person initially employed on or after July 1, 2016, by a community school operator that withholds Social Security taxes beginning with the first paycheck after commencing employment; and

--Except as described below, any person who is a former employee of a community school operator and is reemployed on or after July 1, 2016, by the same operator if the operator withholds Social Security taxes beginning with the first paycheck after commencing reemployment.

The act includes in SERS membership any person reemployed on or after July 1, 2016, by the same operator if the operator withholds Social Security taxes beginning with the first paycheck after commencing reemployment and either of the following apply:

--The person is employed by the same operator at any time within the period July 1, 2015, to June 30, 2016, and the date of reemployment is before July 1, 2017;

--Both of the following conditions are true: (1) the person is employed by the same operator at any time in the 12-month period preceding the date the operator initially withholds and pays Social Security taxes and the person had previously only contributed to SERS and (2) the person's date of reemployment is not more than 12 months after the date the operator initially withholds and pays the taxes.⁸⁶

⁸⁵ R.C. 3307.01(B)(2)(b) and 3314.10.

⁸⁶ R.C. 3309.011, 3309.013, and 3314.10.



Faculty employed in community and STEM schools

The act clarifies that a "faculty member" employed "in" a community school or science, technology, engineering, and mathematics (STEM) school is in STRS. It defines "faculty" as the teaching staff of a university, college, or school, including any academic administrators.⁸⁷

Extended deadlines for 2014-2015 academic performance reports

For the 2014-2015 school year only, the act sets the following extended deadlines for community school academic performance reports:

- March 31, 2016, for the Department's report on the effectiveness and financial condition of all community schools and on the performance of community school sponsors;
- March 1, 2016, for each sponsor's report submitting the results of the evaluation of academic and fiscal performance and the organization and operation of each community school it sponsors to the Department and to the parents;
- January 31, 2016, for each governing authority's report describing its activities and progress in meeting the academic goals and performance standards and its financial status to the sponsor and the parents of its students.⁸⁸

New reporting requirements

The act requires the Department to compile and publish, for each year since the 2010-2011 school year, in a simple, easily accessible location on its website, the following:

(1) A single document identifying each community school that has closed during each year and the reason for the closure of each school. The Department must update this document annually.

(2) A single document for each entity that submitted an application to sponsor schools that contains the following:

- The entity's application and most recent evaluation;

⁸⁷ R.C. 3307.01(B) and (P).

⁸⁸ Section 6.



- A designation of whether the application was approved or denied;
- All documentation used in determining whether to approve or deny the application;
- A short statement describing the rationale used in approving or denying the application.

(3) A single document containing the following information:

- A list of all sponsor ratings for each school year for which ratings are available;
- A list of each sponsor that is prohibited, as of December 31 of each school year, from sponsoring new schools; and
- A list of each sponsor that sponsors or has sponsored a school that is or was subject to closure, and the reason for that closure.⁸⁹

Study of closure of lower-performing community schools that primarily serve students with disabilities

The act requires the State Board to make recommendations by June 30, 2016, to the General Assembly and the Governor regarding (1) performance standards for community schools in which a majority of the students are children with disabilities receiving special education and related services and (2) the feasibility of eliminating the exemption for such schools from the provision requiring closure for persistent low academic performance.⁹⁰

Repeal of study on direct authorization and sponsor evaluations

The act repeals a provision of H.B. 64 of the 131st General Assembly that required the Department, by July 1, 2016, to present to the House and Senate Education committees (1) a plan for expanding the Department's authority to directly authorize community schools, and (2) recommendations for a ratings rubric for evaluating sponsors.⁹¹

⁸⁹ R.C. 3314.039.

⁹⁰ Section 4.

⁹¹ Section 263.660 of H.B. 64 of the 131st General Assembly, repealed in Section 3 of the act.

Committee to study dropout recovery community schools

The act establishes a committee to make recommendations to the General Assembly regarding the definition of "quality" for dropout recovery community schools. The committee also must study the efficacy of a completion or competency-based funding structure for these schools. The committee must consist of the following members:

- (1) A business leader appointed by the Governor or the Governor's designee;
- (2) The president of a community college or the president's designee, appointed by the Governor or the Governor's designee;
- (3) The superintendent of a dropout recovery community school that received a rating of "meets standards" or "exceeds standards" on its most recent report card, appointed by the Governor or the Governor's designee;
- (4) The superintendent of a career-technical school appointed by the Speaker of the House of Representatives;
- (5) An individual representing the House of Representatives, appointed by the Speaker of the House;
- (6) An individual representing the Senate, appointed by the President of the Senate;
- (7) The president of a four-year university, or the president's designee, appointed by the President of the Senate;
- (8) A representative of the Board of Regents, appointed by the Chancellor of Higher Education;
- (9) A representative of the Department of Education, appointed by the Superintendent of Public Instruction; and
- (10) The Superintendent of a "Big Eight" school district as selected by the Ohio 8 Coalition.

The committee, which according to the act serves under guidance of the Department of Education, must report its recommendations to the chairpersons of the House and Senate Education committees by August 1, 2016.⁹²

⁹² Section 5.

Study of "similar students" measure

The act requires the Department to conduct a study to evaluate the validity and usefulness of using the "similar students measure," as created by the California Charter Schools Association, to calculate student academic progress, using a regression model to take into account demographic differences, for each public school. The Department must report its findings and recommendations to the State Board and General Assembly by December 1, 2016.⁹³

Student enrollment status

For purposes of the student counts used for school funding, the act permits (rather than requiring as under prior law) a student in any of grades 9-12 to be considered a full-time equivalent student if the student is enrolled in at least five units of instruction per year.⁹⁴

Maximum compensation, district and ESC board members

The act limits the maximum compensation for each member of a school district board of education or educational service center governing board to \$5,000 per year for service to the board. Continuing law imposes a similar limitation on community school governing authority members.⁹⁵

HISTORY

ACTION	DATE
Introduced	01-28-15
Reported, H. Education	03-25-15
Passed House (70-25)	03-26-15
Reported, S. Education	06-25-15
Passed Senate (31-0)	06-25-15
House refused to concur in Senate amendments (34-58)	09-30-15
Senate requested conference committee	09-30-15
House acceded to request for conference committee	09-30-15
Senate agreed to conference committee report (32-0)	10-07-15
House agreed to conference committee report (92-6)	10-07-15

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⁹³ R.C. 3302.037.

⁹⁴ R.C. 3317.034.

⁹⁵ R.C. 3313.12(A) and (B); see R.C. 3314.02(E)(5).

