



# Ohio Legislative Service Commission

## Bill Analysis

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(As Reported by H. Education)

Reps. Dovilla, Roegner

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## BILL SUMMARY

### Limitations on switching sponsors

- Prohibits certain low-performing community schools that have had more than one sponsor in the previous five years from entering into a contract with a new sponsor without first receiving approval from the Department of Education.
- Prohibits, beginning on the bill's effective date, all community schools from changing sponsors within the first four years of the school's operation, unless the Department of Education authorizes the school to do so.

### Sponsor and governing authority contract

- Clarifies that each contract between a sponsor and a governing authority must contain performance standards, including all applicable report card measures.
- Requires that each contract between a sponsor and a governing authority contain an addendum with a detailed description of each facility, its associated costs, the annual mortgage principal and interest payments, and the name of the lender.
- Requires that each contract between a sponsor and a governing authority contain a provision requiring that the school's attendance and participation policies and records will be available for public inspection.

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\* This analysis was prepared before the report of the House Education Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Requires that each contract between a sponsor and a governing authority contain a provision requiring that all moneys the school's operator loans to the school must be accounted for, documented, and bear interest at a fair market value.
- Requires a community school to file its policies and procedures for internal financial controls with the school's sponsor.

### **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.
- Requires each member of a community school governing authority to annually file a disclosure statement setting forth potential conflicts of interest.
- Requires each community school to post on the school's website the name of each member of the school's 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 of Education.
- Requires each community school sponsor to annually verify that a finding for recovery has not been issued by the Auditor of State against any governing authority member of that community school.

### **Designated fiscal officer**

- Requires that the statutorily designated fiscal officer of a community school be employed by or engaged under a contract with the governing authority of that community school.
- Authorizes a community school governing authority to waive, for one year at a time, the bill's requirement specifying that the governing authority is the responsible party for employing or contracting with the designated fiscal officer, so long as the school's sponsor approves such a waiver.

## **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.

## **Training on Public Records and Open Meetings Laws**

- Requires the members of the governing authority of a community school, the school's designated fiscal officer, the chief administrative officer and other administrative employees of the school, and all individuals performing supervisory or administrative services for the school under a contract with the school's operator to complete annual training on the Public Records and Open Meetings Laws.

## **Sponsor oversight and monitoring**

- Specifies that, if a community school closes or is permanently closed, the school's fiscal officer must deliver all financial and enrollment records to the school's sponsor within 30 days of the school's closure.
- Grants a community school sponsor the right of action against the school's fiscal officer to compel delivery of all financial and enrollment records of the school if the fiscal officer fails to provide the records in a timely manner.
- Requires each sponsor to annually report the amount and type of expenditures made in providing oversight and technical assistance to each community school that it sponsors, and requires the State Board of Education to establish requirements for that reporting procedure.
- Requires that copies of financial and enrollment records be furnished on a monthly basis to the sponsor, members of the governing authority, and the designated fiscal officer.
- Requires the sponsor of each Internet- or computer-based community school (e-school) to monitor and ensure compliance with the required online learning standards.
- Requires the sponsor of each e-school to submit assurances to the Department of Education that it has reviewed certain information provided by each school that will operate using the blended learning model within ten days of that school's opening each year and requires that same information be included in the contract between the sponsor and the governing authority.

- Prohibits the sponsor of a community school from entering into any new or renewed contracts selling any goods or services to any community school it sponsors.

### **Termination notice of sponsor contract**

- Moves the deadline, from February 1 to December 1, by which a sponsor who intends to terminate or take actions not to renew the contract of a community school must notify the school of the proposed action in writing.

### **Sponsor incentives**

- Provides for specified incentives for community sponsors based on their annual performance ratings.

### **Operator contracts**

- 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.
- Prohibits a community school's operator with which a governing authority contracts for services from leasing real property to that community school for an amount that exceeds the fair market rental value of that property by more than 5%, and requires the school's sponsor to verify that the lease does not exceed that percentage.

### **Operator performance ratings**

- Requires the Department of Education to develop, maintain, and publish an annual performance report for all operators of community schools in the state.

### **Appeal of operator contract termination**

- Eliminates a currently prescribed appeal procedure in cases in which the governing authority has notified the operator of its intent to terminate or not renew the operator's contract.

### **Community school 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 prescribed conditions are satisfied.



## **Recommendation on closure of certain community schools**

- Requires the State Board of Education by December 31, 2015, to make recommendations to the General Assembly and the Governor regarding performance standards for community schools in which a majority of the enrolled students are children with disabilities and the feasibility of removal of the exemption from permanent closure for such schools.

## **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 school resides in a children's residential center.

## **Conversion community school report card data**

- Effective July 1, 2016, removes the exception from combining state report card data for certain dropout conversion community schools with that of their sponsoring school districts.
- Specifies that, when combining data of a conversion school sponsored by a school district, the Department of Education include only the district's resident students.

## **Direct authorization of community schools**

- Permits the Department of Education to establish a format and deadlines for application for direct authorization of community schools.
- Allows the State Board of Education to adopt rules for additional criteria necessary for the Department to approve a direct authorization application.
- Specifies that, if the State Board adopts the rules described above, automatic approval of direct authorization applications ceases to apply on or after July 1, 2016.
- Allows a transformation alliance to offer a recommendation on a direct authorization application, provided the Department receives a direct authorization application for a community school to be located in an alliance municipal school district (Cleveland).

## **Community school-operated preschool programs**

- Permits a community school that satisfies specified requirements to be licensed by the Department of Education to operate a preschool program and to admit



individuals who are general education preschool students (preschool students who are not receiving special education) to that program.

- Requires a community school that operates a preschool program that is licensed by the Department to comply with the same licensing and operational standards that apply to preschool programs operated by school districts, eligible nonpublic schools, and county DD boards under current law.
- Specifies that a community school that operates a preschool program that is licensed by the Department may not receive state community school operating funding for students enrolled in that program, but authorizes the program to apply for early childhood education funding.

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## CONTENT AND OPERATION

### Background on community schools in general

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, value-added progress dimension, or overall score ratings on the state report card, or (3) a school district in the original community school pilot project area (Lucas County).<sup>1</sup>

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

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

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<sup>1</sup> R.C. 3314.02(A)(3).

<sup>2</sup> 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, each governing authority must consist of a board of not less than five individuals who each serve on no more than five community school boards at the same time.<sup>3</sup>

## **Operators**

The term "operator" is defined by statutory 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.<sup>4</sup>

Many community school governing authorities contract with an operator to run the day-to-day operations of the school. The school's contract with the operator is separate from the school's contract with the sponsor.

## **Limitations on switching sponsors**

Under the bill, starting December 31, 2015, any community school that has had more than one sponsor in the previous five years and to which either of the following conditions applies must first receive approval from the Department of Education before it may enter into a contract with a new sponsor:

(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

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<sup>3</sup> R.C. 3314.02(E).

<sup>4</sup> R.C. 3314.02(A)(8).



student growth measure and combined graduation rates on the most recent state report card issued for the school.<sup>5</sup>

Also, beginning on the bill's effective date, the bill prohibits all community schools from changing sponsors within the first four years of operation, unless the Department of Education authorizes a school to do so.<sup>6</sup>

### **Sponsor and governing authority contract**

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

(1) Clarifies that the performance standards the sponsor will use to evaluate the school must include all applicable state report card measures;<sup>7</sup>

(2) Expands the requirement that the school's facilities must be described in the contract, by requiring an addendum to the contract containing at least a detailed description of each facility used for instructional purposes, the annual costs associated with leasing each facility that are paid on behalf of the school, the annual mortgage principal and interest payments that are paid by the school, and the name of the lender or landlord identified as such, and the lender's or landlord's relationship to the operator, if any;<sup>8</sup>

(3) Requires that the school's attendance and participation policies and records will be available for public inspection;<sup>9</sup> and

(4) Requires that all moneys the school 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.<sup>10</sup>

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<sup>5</sup> R.C. 3314.034.

<sup>6</sup> R.C. 3314.039.

<sup>7</sup> R.C. 3314.03(A)(4).

<sup>8</sup> R.C. 3314.03(A)(9).

<sup>9</sup> R.C. 3314.03(A)(27).

<sup>10</sup> R.C. 3314.03(A)(29).

## **Internal financial controls**

The bill requires that when a community school submits to the sponsor its comprehensive plan for the school, as required by law, the school must also submit copies of all policies and procedures regarding internal financial controls adopted by the governing authority of the school.<sup>11</sup> Continuing law requires that each contract between a sponsor and a governing authority contain a provision on internal financial controls.

## **Governing authority members**

In addition to the restrictions on governing authority members under the continuing law, the bill 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 school district or ESC.<sup>12</sup> The bill further prohibits a community school 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.<sup>13</sup>

The bill also requires each governing authority member to annually file a disclosure statement setting forth the names of any immediate relatives or business associates employed by any of the following within the previous three years:

- (1) The sponsor or operator of that community school;
- (2) A school district or ESC that has contracted with that community school; or
- (3) A vendor that is currently engaged in business or has previously engaged in business with that community school.<sup>14</sup>

## **Names and addresses of governing authority members**

The bill requires each community school to post on the school's website the name of each member of the school's governing authority. It also requires each community

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<sup>11</sup> R.C. 3314.03(B).

<sup>12</sup> R.C. 3314.02(E)(5).

<sup>13</sup> R.C. 3313.131 and 3314.02(E)(7).

<sup>14</sup> R.C. 3314.02(E)(6).

school to provide, upon request, the name and address of each governing authority member to the school's sponsor and the Department of Education.<sup>15</sup>

### **Verification of no finding for recovery against governing authority members**

The bill 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 governing authority of that community school.<sup>16</sup>

### **Designated fiscal officer**

Under continuing law, every community school must have a designated fiscal officer. The bill requires that fiscal officer to be employed by, or engaged under a contract with, the governing authority of the community school.<sup>17</sup>

However, the bill also permits a governing authority to waive, for one year at a time, the bill's requirement that it is the party responsible to employ or contract with the fiscal officer. In order to waive that requirement, the governing authority must adopt a resolution for every year it wishes to waive the requirement, and the resolution 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 of Education. The bill explicitly states that such resolution *does not* waive the current law requirement for a community school to have a designated fiscal officer.<sup>18</sup>

### **Delivery of financial and enrollment records**

The bill specifies that, if a community school closes or is permanently closed, the school's fiscal officer must deliver all financial and enrollment records to the school's sponsor within 30 days of the school's closure. If the fiscal officer fails to provide the records in a timely manner, the bill grants the sponsor right of action against the fiscal officer to compel delivery of all financial and enrollment records of the school.<sup>19</sup>

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<sup>15</sup> R.C. 3314.035.

<sup>16</sup> R.C. 3314.02(E)(7).

<sup>17</sup> R.C. 3314.011(A).

<sup>18</sup> R.C. 3314.011(C).

<sup>19</sup> R.C. 3314.023.

## **Employment of independent attorney during contract negotiations**

The bill requires that 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 community school's contract with the sponsor or the school's contract with the operator.<sup>20</sup>

## **Training on Public Records and Open Meetings Laws**

The bill requires all of the following to complete training on an annual basis on the Public Records<sup>21</sup> and Open Meetings<sup>22</sup> Laws, so that they may comply with those laws as required under current law:<sup>23</sup>

- (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;
- (4) All individuals performing supervisory or administrative services for the school under a contract with the operator of the school.<sup>24</sup>

## **Sponsor oversight and monitoring**

Under the bill, each sponsor must annually submit a report, using the format and manner prescribed by the State Board of Education, describing the amount and type of expenditures made in providing oversight and technical assistance to the community schools it sponsors. The report also must be submitted to the school's operator.<sup>25</sup>

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<sup>20</sup> R.C. 3314.036.

<sup>21</sup> R.C. 149.43, not in the bill.

<sup>22</sup> R.C. 121.22, not in the bill.

<sup>23</sup> See R.C. 3314.03(A)(11)(d).

<sup>24</sup> R.C. 3314.037.

<sup>25</sup> R.C. 3314.025(A).



The bill also requires the State Board, within 90 days after the bill's effective date, to establish requirements and a reporting procedure to aid sponsors in compliance with this requirement.<sup>26</sup>

Under continuing law, the sponsor of each community school must meet with the governing authority or treasurer of the school and review the financial and enrollment records at least once every month. The bill requires that copies of those records be furnished on a monthly basis to the sponsor, operator, each member of the governing authority, and the fiscal officer of the community school.<sup>27</sup> The bill also states that a community school's sponsor is the party responsible for communicating and meeting with the Auditor of State regarding an audit of the school or the condition of financial and enrollment records of the school, regardless of whether the sponsor has entered into an agreement with another entity to perform all or part of the sponsor's oversight duties.<sup>28</sup>

### **Online learning standards**

The bill requires the sponsor of each Internet- or computer-based community school (e-school) to monitor and ensure compliance with the online learning standards for those schools. The sponsor of an e-school must report a school's failure to comply with the standards to the Department of Education.<sup>29</sup> Under continuing law, each e-school must comply with the standards developed by the International Association for K-12 Online Learning.<sup>30</sup>

### **Blended learning**

The bill requires the sponsor of each community school that operates using the blended learning method to annually provide to the Department of Education, not later than ten business days prior to the opening of the school, 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;

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<sup>26</sup> R.C. 3314.025(B).

<sup>27</sup> R.C. 3314.023.

<sup>28</sup> R.C. 3314.019.

<sup>29</sup> R.C. 3314.23(C).

<sup>30</sup> R.C. 3314.23(A).

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

(4) The school's attendance requirements, including how the school 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;

(7) A description of the professional development activities that will be offered to teachers.<sup>31</sup>

This requirement is in addition to other assurances each sponsor must submit to the Department each year. The bill also requires that each contract between a sponsor and the governing authority of a community school that operates using the blended learning method contain the information described in numbers (1) through (7) above.<sup>32</sup>

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.<sup>33</sup> Community schools, as well as school districts and other types of public and private schools, are specifically authorized by a separate continuing law to operate all or part of a school using a blended learning model. That statute also states that an Internet- or computer-based community school is not a "blended learning school."<sup>34</sup>

### **Selling of services by a sponsor**

The bill prohibits the sponsor of a community school from selling any goods or services to that school. However, the sponsor is not required to comply with this requirement with respect to any contract for involving the sale of goods or services entered into prior to the bill's effective date until the expiration of the contract.<sup>35</sup>

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<sup>31</sup> R.C. 3314.19(N).

<sup>32</sup> R.C. 3314.03(A)(28).

<sup>33</sup> R.C. 3301.079(K)(1), not in the bill.

<sup>34</sup> R.C. 3302.41, not in the bill.

<sup>35</sup> R.C. 3314.46.

Continuing law does permit a sponsor to charge a fee for its oversight and monitoring duties, in an amount of up to 3% of the total amount of the school's state operating payments.<sup>36</sup> The bill's provisions do not affect this sponsor fee provision.

### **Notice of termination of sponsor contract**

The bill moves, from February 1 to December 1, the deadline by which a sponsor who intends to terminate or take actions to not renew the contract of a community school must notify the school of the proposed action in writing.<sup>37</sup> Under continuing law, the notice must include detailed reasons for the proposed action, the effective date of the termination or nonrenewal, and a statement that the school may, within 14 days of receiving the notice, request an informal hearing before the sponsor. Not later than 14 days after an informal hearing, the sponsor is required to issue a written decision affirming or rescinding the decision to terminate or not renew. That decision may be appealed for final determination to the State Board of Education.<sup>38</sup>

### **Incentives based on sponsor evaluations**

Under current law, the Department of Education annually rates community school sponsors based on the performance of their schools, compliance with laws, and adherence to quality practices prescribed by the Department. Each sponsor is rated as either "exemplary," "effective," or "ineffective." If a sponsor is rated as "ineffective" it may not enter into contracts to sponsor additional schools until its rating improves.<sup>39</sup>

The bill allows community school sponsors with "exemplary" ratings to take advantage of specific incentives.<sup>40</sup> Those incentives consist of the following:

(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. Except for certain grandfathered sponsors (those that were sponsoring schools prior to April 8, 2003), each entity that sponsors community schools must be approved by the Department and enter into an agreement with the Department specifying the scope of its sponsorship authority.<sup>41</sup>

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<sup>36</sup> R.C. 3314.03(C).

<sup>37</sup> R.C. 3314.07(B)(3).

<sup>38</sup> R.C. 3314.07(B)(4).

<sup>39</sup> R.C. 3314.016.

<sup>40</sup> R.C. 3314.016(D)(2).

<sup>41</sup> R.C. 3314.015.

(2) An exemption from the preliminary agreement and contract adoption and execution deadline requirements. A community school governing authority and school sponsor must adopt their contract by March 15 and must sign it by May 15 prior to the school year in which the school will open for operation.<sup>42</sup>

(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.<sup>43</sup>

Also, under the bill, the Department may add additional years to any renewal agreement with "exemplary" sponsors who continue to meet the sponsor requirements under continuing law. However, the renewal may not exceed 12 years.<sup>44</sup> Under current law, the term of an initial sponsor's agreement with the Department is for up to seven years and may be renewed for one additional year if (1) the sponsor is rated "exemplary" or "effective" and (2) the sponsor continues to meet all sponsor requirements under law.<sup>45</sup>

Finally, the bill allows the Department of Education to establish an incentive system based upon the overall rating given to each sponsor, in addition to the ones created in the bill as described above.<sup>46</sup>

## **Operator contracts**

The bill requires that, on or after the bill's effective date, any new or renewed contract between the governing authority of a community school and an operator to include at least the following:

(1) Criteria to be used for early termination of the operator contract;

(2) Required notification procedures and 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

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<sup>42</sup> R.C. 3314.02(D).

<sup>43</sup> R.C. 3314.03(A)(25).

<sup>44</sup> R.C. 3314.015(B)(1).

<sup>45</sup> R.C. 3314.015(B).

<sup>46</sup> R.C. 3314.016(D)(1).



materials and supplies, computers, printers, and other digital devices purchased by the governing authority or operator.<sup>47</sup>

### **Lease of property to community schools by operators**

The bill prohibits a community school operator from leasing any parcel of real property to that community school for an amount that exceeds the fair market rental value of that property by more than 5%, as verified by the school's sponsor.<sup>48</sup>

### **Operator performance ratings**

Under the bill, the Department of Education must develop and publish by July 1, 2016, an annual performance report for all operators of community schools in the state, which must be made available on the Department's website. The Department must include this report in its currently required annual report on the effectiveness of academic programs, operations, and legal compliance and of the financial condition of all community schools and on the performance of community school sponsors.<sup>49</sup>

Beginning December 31, 2015, the bill requires the Department to maintain an accurate record of the names and identifying information of all entities that have entered an operator contract with the governing authority of a community school. The bill also requires the Department to receive from the governing authority of each community school a copy of the operator contract and post a copy on its website.

### **Elimination of appeal procedures for termination of operator contract**

The bill repeals a statute that prescribes an appeal procedure in cases in which the governing authority has notified the operator of its intent to terminate or not renew the operator's contract.<sup>50</sup>

Under that procedure, the operator may appeal the decision to the school's sponsor, except that if the sponsor has sponsored the school for less than 12 months, the appeal must be made to the State Board of Education. The sponsor or the State Board must determine whether the operator should continue to manage the school, taking into consideration whether the operator has managed the school in compliance with the law and the terms of the contract between the sponsor and the school and whether the school's progress in meeting the academic goals stated in that contract has been

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<sup>47</sup> R.C. 3314.032(A).

<sup>48</sup> R.C. 3314.032(B).

<sup>49</sup> R.C. 3314.031.

<sup>50</sup> Repealed R.C. 3314.026.

satisfactory. If the sponsor or State Board decides that the operator should continue to manage the school, the sponsor must remove the existing governing authority, and the operator must appoint a new one for the school.

### **Community school mergers and consolidation**

Under the bill, 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 that the governing authority of the community school created by the merger or consolidation enters into a sponsor contract with an entity rated as "exemplary" by the Department of Education.<sup>51</sup>

### **Recommendations on the closure of poor performing community schools that primarily serve students with disabilities**

The bill requires the State Board of Education to make recommendations by December 31, 2015, to the General Assembly and the Governor regarding (1) performance standards for community schools in which a majority of the enrolled students are children with disabilities receiving special education and related services and (2) the feasibility of removal of the exemption from permanent closure for such schools.<sup>52</sup> Currently, most community schools are subject to permanent closure for persistent poor performance based on prescribed state report card criteria.<sup>53</sup> But community schools that primarily serve students with disabilities are exempt from those closure provisions.<sup>54</sup>

### **Report of students in children's residential centers**

The bill requires each community school to annually submit to the Department of Education and Auditor of State a report of each instance under which a student who is enrolled in that community school resides in a children's residential center.<sup>55</sup> 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

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<sup>51</sup> R.C. 3314.074(D).

<sup>52</sup> Section 3.

<sup>53</sup> R.C. 3314.35 and 3314.351, neither in the bill.

<sup>54</sup> R.C. 3314.35(A)(4)(b).

<sup>55</sup> R.C. 3314.038.

residential center, and in which 11 or more children, including the children of any staff residing at the facility, are given nonsecure care and supervision 24 hours a day.<sup>56</sup>

### **Combining conversion school report card data with that of its sponsoring district**

Current law permits the combining of state report card data for certain kinds of community schools with that of their sponsoring school districts. One such case is that of a conversion community school sponsored by a school district. However, that provision does not apply to conversion community schools that primarily enroll students between 16 and 22 years of age who dropped out of high school or are at risk of dropping out of high school due to poor attendance, disciplinary problems, or suspensions. The bill removes that exception effective July 1, 2016.<sup>57</sup>

Further, the bill requires, that in combining data of a school district with that of a conversion community school it sponsors, the Department use only academic performance data of students enrolled in the community school who are entitled to attend school in that school district. Thus, the combined data of a school district that sponsors a community school must include only the data of students who are residents of the district and not those of other districts who are enrolled in the school.<sup>58</sup>

### **Direct authorization of community schools**

The bill makes changes to the application and approval of applications for direct authorization of community schools by the Department of Education. First, the bill permits the Department to establish a format and deadlines for direct authorization applications.<sup>59</sup> Second, the bill permits the State Board of Education to adopt rules by December 31, 2015, for additional criteria necessary for an application for direct authorization to be approved. If the State Board adopts such rules, automatic approval of applications for direct authorization ceases to apply beginning with applications for direct authorization on and after July 1, 2016. In that case, beginning on that date, the Department will approve or deny each application for direct authorization based on criteria in the State Board's rules and the application requirements under current law.<sup>60</sup>

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<sup>56</sup> See R.C. 5103.05(A)(1), not in the bill.

<sup>57</sup> R.C. 3302.03(I).

<sup>58</sup> R.C. 3302.03(I)(1).

<sup>59</sup> R.C. 3314.029(A)(1).

<sup>60</sup> R.C. 3314.029(A)(2).

The bill also allows a transformation alliance to offer a recommendation on applications for direct authorization from a community school to be located in an alliance municipal school district. (Currently, the only alliance municipal school district is the Cleveland Municipal School District.) The Department must notify a transformation alliance of an application within 14 days after receipt.<sup>61</sup>

### **Background on direct authorization**

Under current law, the Department of Education'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.

Subject to the limit on the number of schools that may be directly authorized each year, the Department must approve each application automatically unless it determines, within 30 days after receipt of the application, that the application does not contain the information required under law or if the application is from an existing community school whose previous sponsor did not renew or terminated its contract with the school.<sup>62</sup> (Under the bill, this automatic approval will cease on and after July 1, 2016, if the State Board adopts rules to establish additional approval criteria.)

The information that must be included in an application for automatic approval for direct authorization is as follows:

(1) A statement attesting that no unresolved finding of recovery has been issued by the Auditor of State against any party to the application, and that no person who is party to the application has been a member of the governing authority of any community school that has closed and against which an unresolved finding of recovery has been issued;

(2) A description of the school's mission, educational program, governing authority, admission and dismissal policies, business plan, academic goals, facilities and

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<sup>61</sup> R.C. 3314.029(A)(5).

<sup>62</sup> R.C. 3314.029.



their locations, learning opportunities that will be offered to students, and, in the case of a new school, the applicant's resources and capacity to run the school;

(3) Specific statements that the school will be nonsectarian as required by law, comply with provisions of the Community School Law regarding teacher licensure and qualifications and curriculum and graduation requirements, and comply with other enumerated provisions of the Revised Code;

(4) A statement of whether the school is a conversion or start-up school; and

(5) Evidence that the applicant will be able to post and file a bond with the Superintendent of Public Instruction to be used to pay the state any moneys owed by the community school in the event the school closes.<sup>63</sup>

## **Preschool programs operated by community schools**

### **Preschool program requirements**

The bill permits a community school that satisfies any of the following requirements to be licensed by the Department of Education to operate a preschool program for children age three or older:

(1) The school is sponsored by an entity that is rated "exemplary" by the Department;

(2) The school offers any of grade levels four through twelve and has received, on the most recent report card, a grade of "C" or better for the overall value-added progress dimension and for the performance index score;

(3) The school does not offer a grade level higher than three and has received, on the most recent report card, a grade of "C" or better for making progress in improving literacy in grades kindergarten through three.

This program must comply with the same licensing and operational standards that apply to preschool programs operated by school districts, eligible nonpublic schools, and county DD boards under current law.<sup>64</sup>

If a community school operates a preschool program that is licensed by the Department, the bill permits the school to admit individuals who are younger than five years of age to that program. Otherwise, except for early enrollment of a kindergarten

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<sup>63</sup> R.C. 3314.029(A)(1).

<sup>64</sup> R.C. 3301.52, 3301.541, 3301.55, 3301.56, 3301.57, 3301.58 and 3314.03.

student who is shown to be ready for school by evaluation or under an acceleration policy or for enrollment of a preschool student in a Montessori preschool program, a community school may not enroll students who are under five years old.<sup>65</sup>

### **Student count**

The bill requires the governing authority of a community school to annually report the number of students enrolled in a preschool program operated by the school that is licensed by the Department who are not receiving special education and related services pursuant to an individualized education program (IEP).<sup>66</sup>

### **Funding**

The bill specifies that community schools that operate preschool programs that are licensed by the Department may not receive state community school operating funding for students enrolled in those programs.<sup>67</sup> However, the bill does authorize those programs to apply for early childhood education funding for fiscal years 2016 and 2017 (per pupil funds that the Department may pay to certain qualified preschool providers for students from families with incomes of not more than 200% of the federal poverty guidelines).<sup>68</sup> In making this authorization, the bill specifies the requirements for the distribution of funds appropriated for early childhood education. These provisions are substantially similar to those in the As Introduced version of H.B. 64 of the 131st General Assembly (the biennial budget bill).<sup>69</sup> Previous budget acts also enacted similar early childhood education funding provisions.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	01-28-15
Reported, H. Education	---

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<sup>65</sup> R.C. 3314.03(A)(11)(j).

<sup>66</sup> R.C. 3314.08(B)(2)(i).

<sup>67</sup> R.C. 3314.06.

<sup>68</sup> Section 4.

<sup>69</sup> Section 263.20 of the As Introduced version of H.B. 64 of the 131st General Assembly.

