



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

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### **S.B. 39**

132nd General Assembly  
(As Introduced)

**Sens.** Schiavoni, Thomas, Brown, Skindell, Yuko, O'Brien, Williams, Tavares

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## **BILL SUMMARY**

### **I. E-schools not sponsored by a school district**

#### **Recording, calculating, and reporting attendance**

- Specifies that an Internet- or computer-based school (e-school) not sponsored by a school district must keep a record of the number of hours in which each student is actively participating in learning opportunities during a consecutive 24-hour period.
- Requires e-schools not sponsored by a school district to certify and submit to the Department of Education student attendance records on a monthly basis and requires the Department to post that information on its website.
- Requires an e-school not sponsored by a school district to notify the Department, parents, guardians, custodians, and the student's resident district of a student's failure to participate in learning opportunities for ten consecutive days.
- Excuses, under "extenuating circumstances," an e-school not sponsored by a school district from automatically withdrawing a high-performing student enrolled in an e-school for being absent without legitimate excuse for 105 hours of learning opportunities.
- Specifies that, for e-schools not sponsored by a school district to determine a student's percentage of full-time equivalency, the percentage of learning opportunities provided by the community school is equal to the amount of time a student was actively engaging in learning opportunities during that school year.

## **State report cards**

### **Reporting of student mobility data**

- Clarifies that additional report card information must include student mobility data, which must be provided for each district and school, including each e-school not sponsored by a school district.

### **Test score attribution of transfer students**

- Requires that test scores of students who were enrolled in an e-school not sponsored by a school district, but who transferred to the student's resident school district, be attributed to the e-school if that student participated in learning opportunities at the e-school for more than 90 days during the school year of the transfer.

### **Grades on promotional materials**

- Requires e-schools not sponsored by a school district to include certain grades the e-school received on the most recent state report card on any advertising, recruiting, or promotional materials.

## **Meetings and conferences**

- Requires all public meetings of an e-school governing authority to be made available to the public in an online streaming format, if the e-school is not sponsored by a school district.
- Requires that, if an e-school student's academic performance declines, and the e-school is not sponsored by a school district, the student's parents and teachers, as well as the principal or lead teacher of the school, must confer to evaluate the student's continued enrollment in the school.

## **II. Operation and funding of all e-schools**

- Specifies that, if an e-school fails to comply with the current e-school operating standards, the e-school's sponsor must report the noncompliance to the Department of Education.
- Creates the E-School Funding Commission to study the actual costs required to operate an e-school and to submit a report of its findings to the General Assembly and Governor by December 31, 2017.

### **III. Operation and funding of all community schools**

#### **Operator contracts**

- Prohibits any new or renewed contract between the operator and governing authority of a community school from exceeding a term of three years.
- Requires that, upon renewal of their contract, the operator and governing authority must (1) comply with all applicable modifications that were made to the Community School Law prior to the effective date of the renewed contract and (2) incorporate these modifications in the renewed contract.

#### **Sponsor contracts – attendance reporting**

- Requires the contract between a sponsor and governing authority of a community school to require each community school, except e-schools sponsored by a school district, to comply, as if it were a school district, with attendance requirements and standards established by rule of the State Board.

#### **Provision of learning opportunities**

- Changes several provisions of law from "offer" to "provide" with regard to the amount of learning opportunities "provided" to students by community schools.

#### **Distribution of moneys returned as a result of an audit**

- Specifies the distribution of moneys returned to the state as a result of the audit of a community school, based on whether the audit is of the school's enrollment records or some another type of audit.

### **IV. Blended learning models**

- Requires the Department to develop a metric for measuring student performance in schools that operate using a "blended learning" method.

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## CONTENT AND OPERATION

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.<sup>1</sup>

The bill makes several changes to the law regarding e-schools, particularly e-schools that are not sponsored by a school district. It also makes changes to the law governing all community schools, as well as schools operating a blended learning model.

### I. E-schools not sponsored by a school district

#### Recording, calculating, and reporting attendance

Current law, recently enacted by H.B. 2 of the 131st General Assembly,<sup>2</sup> 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 can be easily submitted to the Department of Education, upon request by the Department or the Auditor of State. Further, continuing law, enacted prior to H.B. 2, limits an e-school student to not more than ten hours of learning opportunities in any 24-hour period.

The bill specifies that each e-school not sponsored by a school district keep an accurate record of the number of hours in which each individual student is actively

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<sup>1</sup> R.C. 3314.02(A)(7), not in the bill.

<sup>2</sup> H.B. 2 was effective February 1, 2016.



participating in learning opportunities during each period of 24 consecutive hours. This record must be certified monthly by a licensed educator employed by the school and submitted to the Department, in the form and manner prescribed by the Department. The Department must make each report available on its website to the extent permitted under the federal Family Educational Rights and Privacy Act and the implementing state law.<sup>3</sup>

If a student enrolled in an e-school not sponsored by a school district fails to participate in learning opportunities for ten consecutive days, the bill requires the e-school to notify the Department, the student's parent, guardian, or custodian, and the student's resident school district of the failure to participate.<sup>4</sup>

### **Exception from automatic withdrawal for nonattendance**

Currently, the governing authority of any community school must automatically withdraw a student who failed without legitimate excuse to participate in 105 consecutive hours of learning opportunities offered to the student.<sup>5</sup> The bill excuses, under "extenuating circumstances," a high-performing student who is enrolled in an e-school not sponsored by a school district from that requirement. The bill further specifies that for purposes of calculating a high-performing student's percentage of full-time equivalency for funding determinations, "percentage of learning opportunities provided by the community school to that student" does not need to equal the amount of time that the student was actively engaging in learning opportunities during that school year.

The bill requires the State Board of Education to adopt rules to implement the provision. Specifically, the State Board must define what a "high-performing student" is and specify the extenuating circumstances under which a student would not be withdrawn. Further, the State Board must specify any necessary parameters for determining a high-performing student's percentage of full-time equivalency.<sup>6</sup>

### **Full-time equivalency**

The bill specifies that, in determining the percentage of full-time equivalency for a student enrolled in an e-school not sponsored by a school district, the percentage of learning opportunities provided by the e-school to that student must be equal to the

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<sup>3</sup> See R.C. 3319.321 and 20 United States Code 1232g.

<sup>4</sup> R.C. 3314.27.

<sup>5</sup> See R.C. 3314.03(B)(6)(b).

<sup>6</sup> R.C. 3314.088. Conforming changes in R.C. 3314.03(A)(6)(b) and 3314.08(H)(2)(c).

amount of time that the student was actively engaging in learning opportunities during that school year. This does not apply to "high-performing students," as described above. A student's percentage of full-time equivalency is used to calculate the amount of funding deducted from a student's resident school district for payment to the community school.<sup>7</sup>

## **State report cards**

### **Reporting of student mobility data**

Current law requires the Department of Education to include, as additional information on the state report card for each school district and school, student mobility data disaggregated by race and socioeconomic status, when available. The bill requires that the information be reported annually, instead of only "when available." The bill also expressly states that student mobility data must be reported for each school district and school, specifically including e-schools not sponsored by a school district.<sup>8</sup>

### **Test score attribution of transfer students**

When calculating grades for school districts and schools on the state report card, the bill directs the Department to attribute the test scores of certain transfer students from e-schools that are not sponsored by a school district to the e-school from which the student transferred. The Department must attribute test scores of students who satisfy both of the following requirements to the e-school:

(1) The student is enrolled in an e-school not sponsored by a school district and has participated in learning opportunities at the e-school for more than 90 days in the school year for which the report card is issued.

(2) The student transfers to the school district in which the student is entitled to attend school during that same school year.

Thus, the scores of a student who attended an e-school for more than 90 days and transferred to the student's resident school district, all within the same school year, will be attributed to the report card ratings of the e-school from which the student transferred and not the school district.<sup>9</sup>

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<sup>7</sup> R.C. 3314.08(H)(3).

<sup>8</sup> R.C. 3302.03(H). Conforming change in R.C. 3302.01.

<sup>9</sup> R.C. 3302.038.



## **Grades on promotional materials**

The bill requires an e-school not sponsored by a school district to include certain grades it received on the state report card on any advertising, recruiting, or promotional materials.<sup>10</sup> Specifically, such materials must include the e-school's most recent rating or grade for all of the following:

- (1) Overall grade;<sup>11</sup>
- (2) Performance index score;<sup>12</sup>
- (3) Overall value-added progress dimension score;<sup>13</sup> and
- (4) Four- and five-year adjusted cohort graduation rate score.<sup>14</sup>

## **Meetings and conferences**

### **Governing authority meetings**

For e-schools not sponsored by a school district, the bill requires all public meetings of the e-school's governing authority to be made available to the public in an online streaming (live event) format. At least two weeks before each public meeting, notice must be given by publication in at least one newspaper of general circulation within each city or county from which the school currently enrolls a student.<sup>15</sup>

The bill specifies that the requirements described above do not exempt any e-school from complying with the Open Meetings Laws, which all public schools are subject to under continuing law.<sup>16</sup>

### **Parent-teacher conferences**

Under continuing law, each e-school must communicate, on a periodic basis throughout each school year, with each student's parent regarding the performance and

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<sup>10</sup> R.C. 3314.242.

<sup>11</sup> See R.C. 3302.03(C)(3), unchanged by the bill.

<sup>12</sup> See R.C. 3302.03(B)(1)(b) and (C)(1)(b), unchanged by the bill.

<sup>13</sup> See R.C. 3302.03(B)(1)(e) and (C)(1)(e), unchanged by the bill.

<sup>14</sup> See R.C. 3302.03(B)(1)(d) and (C)(1)(d), unchanged by the bill.

<sup>15</sup> R.C. 3314.241.

<sup>16</sup> See R.C. 3314.03(A)(11)(d). (See also R.C. 121.22, not in the bill.)

progress of that student. Each e-school also must provide opportunities for parent-teacher conferences, which may be conducted electronically.

For e-schools not sponsored by a school district, the bill requires that, in addition to the offered parent-teacher conferences, if a student's academic performance declines, the student's parents and teachers, as well as the principal or lead teacher of the e-school, *must* confer to evaluate the student's continued enrollment in the school. As under current law, the conference may be conducted electronically.<sup>17</sup>

## **II. Operation and funding of all e-schools**

### **Operating standards**

All e-schools are currently required to comply with standards developed by the International Association for K-12 Online Learning (INACOL). Furthermore, continuing law, enacted by H.B. 2, specifies that each e-school sponsor is responsible for monitoring, ensuring, and reporting compliance with the e-school standards specified by law.

The bill specifically requires each e-school sponsor to report to the Department of Education, in the manner prescribed by the Department, if the school fails to comply with the INACOL standards.<sup>18</sup>

### **E-school Funding Commission**

The bill creates the E-School Funding Commission to study the actual costs required to operate an e-school. The commission must determine a rational methodology for calculating an e-school's operating costs and submit a report of its recommendations to the General Assembly by December 31, 2017. The commission also must submit a copy of its report to the Governor for use when considering school funding recommendations. Upon submission of the report, the commission ceases to exist.

Members serve without compensation.

The Department of Education must provide administrative support to the commission.

The commission consists of the following members:

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<sup>17</sup> R.C. 3314.271(D).

<sup>18</sup> R.C. 3314.23.





- (1) The Governor, or the Governor's designee;
- (2) The Superintendent of Public Instruction, or the Superintendent's designee, who will serve as the chairperson of the committee;
- (3) The Chancellor of Higher Education, or the Chancellor's designee;
- (4) Two teachers currently employed by an e-school in the state, one appointed by the President of the Senate and one appointed by the Minority Leader of the Senate;
- (5) The chief administrator of an e-school that (a) *is* sponsored by a school district, and (b) has received at least a "C" grade for both performance index score and overall value-added progress score on the most recent state report card, appointed by the Speaker of the House of Representatives;
- (6) The chief administrator of an e-school that (a) *is not* sponsored by a school district, and (b) has received at least a "C" grade for both performance index score and overall value-added progress score on the most recent state report card, appointed by the Minority Leader of the House;
- (7) The parent of a student enrolled in an e-school, appointed by the Senate President;
- (8) A representative of the business community, appointed by the Senate Minority Leader;
- (9) A representative of the general public, appointed by the Speaker of the House;
- (10) A representative of community school operators, appointed by the House Minority Leader;
- (11) A representative of community school sponsors, appointed by the Speaker of the House;
- (12) A fiscal officer of an e-school, appointed by the Senate President;
- (13) The chairpersons and ranking members of the standing House and Senate Education committees;
- (14) A representative of an organization that serves as a bargaining representative for teachers in this state, appointed by the Senate Minority Leader; and



(15) A representative from an organization of school administrators or fiscal officials, appointed by the House Minority Leader.<sup>19</sup>

### **III. Operation and funding of all community schools**

#### **Operator contracts**

Many community schools, both e-schools and brick-and-mortar schools, are run by for-profit or nonprofit operators (or management companies) that do so under a separate contract with the schools' governing authorities.<sup>20</sup> The bill prohibits any new or renewed contract between a community school operator and governing authority from exceeding a term of three years. Additionally, the bill specifies that, upon renewal of their contract, the operator and governing authority must (1) comply with all applicable modifications made to the Community School Law prior to the effective date of the renewed contract, and (2) incorporate references to these modifications in the renewed contract.<sup>21</sup>

#### **Sponsor contracts – attendance reporting**

Under continuing law, each contract entered into between a community school sponsor and governing authority must contain statutorily prescribed statements, descriptions, or assurances. The bill prescribes an additional assurance to be included in the sponsorship contract that requires each community school, except an e-school that is sponsored by a school district, to comply with all attendance requirements and standards established by rule of the State Board, including those for excused absences, as if it were a school district.<sup>22</sup>

#### **Provision of learning opportunities**

The bill changes several provisions of law from "offer" to "provide" with regard to the amount of learning opportunities "provided" to students by community schools. Currently, both "offer" and "provide" are used to describe the amount of student learning opportunities.<sup>23</sup>

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<sup>19</sup> Section 3.

<sup>20</sup> See R.C. 3314.02(A)(8), not in the bill.

<sup>21</sup> R.C. 3314.032(E) and (F).

<sup>22</sup> R.C. 3314.03(A)(11)(I). (See also R.C. 3314.27.)

<sup>23</sup> R.C. 3314.03(A)(6)(b), (A)(23), (H)(2)(c), (H)(3), and (H)(4) and 3314.088. See also R.C. 3314.03(A)(11)(a) and 3314.27(A).

## Distribution of moneys returned to the state due to an audit

The bill requires the Department of Education to distribute moneys returned to the state under a finding for recovery issued by the Auditor of State as a result of an audit of a community school as follows:

(1) If the finding for recovery resulted from the audit of enrollment records, the moneys must be credited to the school district or districts from which they were originally deducted for payment to the community school, in an amount equal to the amount originally deducted.

(2) If the finding for recovery resulted from any other type of audit, the moneys must be redistributed to the resident school districts of the students enrolled in the school at the time the finding was issued, in an amount proportional to each district's share of the school's total enrollment at that time.<sup>24</sup>

## IV. Blended learning models

The bill requires the Department of Education, not later than 90 days after the bill's effective date, to develop a metric for measuring student performance in schools that operate using a "blended learning method."<sup>25</sup>

Under current law, "blended learning" is defined 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 (*excluding* e-schools), as well as school districts and other types of public and private schools, are specifically authorized by law to operate all or part of a school using a blended learning model.<sup>26</sup>

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## HISTORY

ACTION	DATE
Introduced	02-08-17

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<sup>24</sup> R.C. 3314.52.

<sup>25</sup> R.C. 3302.41(D).

<sup>26</sup> See R.C. 3301.079(K)(1) and 3302.41, former section not in the bill.

