Community School Legislative History

Early Legislation

122nd General Assembly 1997-1998

With the enactment of House Bill (H.B.) 215 in June 1997, a pilot community school program was established in Lucas County. The Lucas County Educational Service Center and the University of Toledo were authorized as community school sponsors. (The terms 'sponsors' and 'authorizers' are used interchangeably among those familiar with community schools, or charter schools, as they are also called.) The bill allowed for the creation of new start-up and conversion community schools. New start-up community schools were allowed only in the Lucas County pilot study area. Conversion community schools sponsored by traditional public school districts were allowed statewide as a result of this legislation.

Senate Bill (S.B.) 55, enacted in August 1997, expanded the community school program beyond the Lucas County pilot study area, added the State Board of Education as a sponsor and provided for the creation of new start-up community schools within the Ohio 'urban eight' public school districts. In fall 1998, H.B. 770 allowed the University of Toledo Board of Trustees to designate an entity for sponsoring schools in the Lucas County pilot project area.

123rd General Assembly 1999-2000

H.B. 282, enacted in fall 1999, allowed for the expansion of start-up community schools to the 21 largest urban public school districts (all Ohio 'urban eight' districts plus Cleveland Heights, East Cleveland, Elyria, Euclid, Hamilton, Lima, Lorain, Mansfield, Middletown, Parma, South-Western, Springfield, and Warren) and, beginning in the year 2000, to any school district determined to be in "academic emergency." Lucas County Educational Service Center, the University of Toledo (through its designee the Ohio Council of Community Schools), and the State Board of Education were allowed to sponsor start-up community schools in any eligible district. These expansions also permitted superintendents of traditional public school districts to sponsor start-ups in their own or another eligible district within their county.

Attendance areas for community schools were further defined by this legislation. The governing authority of each community school was required to adopt a policy that specified whether admission to the school is limited to students living in the district where the school is located, or is open to students living in adjacent districts or from anywhere in the state. This legislation also required a school district to transport its students enrolled in a community school on the same basis that it provides transportation to students enrolled in district schools.

124th General Assembly 2001-2002

In fall 2001, H.B. 94 addressed the need for facilities for start-up community schools. This legislation required school districts that are selling real property to first offer such property to the governing authority of a start-up community school that is located within the district. In addition, this legislation created a program to provide loan guarantees to community schools for the acquisition of classroom facilities.

Sponsor oversight of community schools was also addressed in this legislation. H.B. 94 granted a sponsor the authority to suspend immediately the operation of a community school for health and safety issues and to suspend a school for other reasons provided the sponsor informed the governing authority of its intent to suspend and also provided an opportunity for a remedy to be offered by the school. Sponsors were also allowed to terminate or not renew a community school contract with 90 days notice, reduced from the previous 180-day requirement, and to terminate a contract prior to the completion of the academic year.

H.B. 364, effective April 8, 2003, changed the role of the State Board of Education from a sponsor of community schools to the authorizer of community school sponsors. This legislation enabled the State Board to focus its energy on providing oversight for the development of these schools and thus further defined its policy and operational role. The bill permitted the State Board of Education to continue as a sponsor for those community schools it had previously approved for up to two school years, until June 30, 2005, to allow the schools time to seek new sponsors. After June 2005, the State Board of Education could only sponsor community schools in specified exigent circumstances (e.g., if a sponsor's authority to authorize community schools is revoked).

Under the provisions of H.B. 364, sponsorship eligibility for start-up community schools was redefined to include any of the following public entities: (1) public school districts; (2) educational service centers; (3) the 13 state universities offering four-year programs; and (4) qualified federal tax-exempt entities under Section 501(c)(3) of the Internal Revenue Code. These federal tax-exempt entities may serve as community school sponsors provided they have been in operation for at least five years prior to their community school sponsor status, hold assets of at least \$500,000, and been determined by the Ohio Department of Education (ODE) to be an education oriented entity under Division (B)(3) of 3314.015. Any eligible entity meeting these criteria may seek approval from ODE to become a sponsor of start-up community schools.

The effect of this part of the legislation was to place more focus on the role of the sponsor and their capacity to authorize community schools. Effective with this legislation, sponsors are required to apply for approval as community school authorizers, who then are offered a contract to serve as a community school sponsor or authorizer for a fixed period of time. However, any entity already serving as a sponsor on or before April 8, 2003 was "grandfathered" as an approved sponsor of start-up community schools.

H.B. 364 expanded the location of new start-up community schools with the inclusion of "academic watch" districts to the definition of "challenged school districts." Under H.B. 364, challenged school districts include any: (1) school district that is part of the Lucas County pilot study area; (2) school district that is in either a state of academic emergency or a state of academic watch under ORC §3302.03; (3) Ohio 'urban eight' school district (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown); and/or (4) 'urban 21' school district (all Ohio 'urban eight' districts plus Cleveland Heights, East Cleveland, Elyria, Euclid, Hamilton, Lima, Lorain, Mansfield, Middletown, Parma, South-Western, Springfield, and Warren). H.B. 364 limited the total number of new non-district sponsored start-up community schools to 225 until July 1, 2005.

This legislation was also noteworthy due to its importance in further defining Internet community schools. These entities, also known as e-schools, were required to establish a

central base of operation at a physical location and provide computers to students for instructional use. These computers must be provided with a filtering device or software that blocks Internet access to materials that are obscene or harmful to juveniles. Moreover, human connectivity was ensured for all students through a requirement that all Internet community schools have plans that ensure face-to-face visits by teachers with students enrolled in the eschool.

125th General Assembly 2003-2004

H.B. 95, which became effective on June 26, 2003, allowed educational service centers to sponsor community schools in any challenged school district, including those challenged school districts that are not located within the educational service center's territory. This legislation also prohibited a community school whose contract was terminated from entering into a new contract with another sponsor, while also allowing the school to provide a notice of 180 days to the sponsor of its intent not to renew an expiring contract.

The mechanisms for providing state aid were also detailed in this legislation. The per-pupil amount of state parity aid that would otherwise flow to a student's resident school district is paid to the community school, and ODE deducts the corresponding amount from the resident district's state allocation. The amount of state aid paid to community schools cannot exceed the amount of payments sent to the home district in the form of total state payments and property tax rollback reimbursement.

Other provisions of H.B. 95 included the requirement for automatic withdrawal from a community school of any student who has missed 105 consecutive hours of learning opportunities without a legitimate excused absence.

H.B. 3, which became effective Aug. 15, 2003, redefined "challenged school districts" to include only: (1) school districts that are part of the Lucas County Pilot Study Area; (2) school districts that are in either a state of academic emergency or a state of academic watch; and (3) Ohio 'urban eight' school districts (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown). This bill eliminated the 'urban 21' school districts that are not also Ohio 'urban eight' school districts or in academic emergency or academic watch from the definition of challenged school districts. However, the bill permits existing start-up community schools established in 'urban 21' school districts that did not otherwise meet the definition of a challenged school district, to continue operation. H.B. 3 also required the State Board of Education to recommend standards governing the operation of Internet-based community schools to the General Assembly no later than Sept. 30, 2003. The department developed these recommendations which were approved by the State Board of Education and submitted to the General Assembly in September 2003.

126th General Assembly 2005-2006

H.B. 66, the biennial budget bill, was passed in June 2005. This legislation provided numerous requirements for community schools in several areas, which are highlighted under the subheadings in this section. Other legislative measures, including H.B. 530 and H.B. 79, are also detailed due to their far-reaching importance in further defining the scope of community schools in Ohio. In light of these bills, the law governing community schools was defined even further as a result of the comprehensive nature of the provisions found in this legislation.

Accountability for Community Schools

The biennial budget bill H.B. 66 expanded accountability for community schools and required them to report on their special education and related services, as well as their expenditures for those services. Pursuant to ORC §3314.28 (A), Internet-based schools were also required to submit a separate report detailing their plan for delivering special education and related services.

Beginning with the 2006-2007 school year, additional assessments for certain community schools were required. Additionally, the legislation also required the establishment of reasonable standards for expected gains in achievement for community schools administering the additional assessments, along with standards for community school graduation rates [ORC §3314.35 and §3314.36].

The legislation required Internet-based schools to provide testing locations within 50 miles of the residence of each enrolled student [ORC §3314.25]. Internet-based schools were required to withdraw students who fail to participate in state-mandated assessments for two consecutive years [ORC §3314.26 (A)]. Additionally, under H.B. 66, Internet-based schools may not receive state funding for students who have failed to participate in state-mandated testing for two consecutive years [ORC §3314.26 (B)]. However, a student may be enrolled in an Internet-based school if the parent pays tuition equal to the amount of state funds the school would have received for the student.

Community School Growth

H.B. 66 [ORC §3314.013] placed two caps on the growth of community schools. In Ohio, only 30 new start-up community schools sponsored by non-Local Education Agencies (LEAs) and 30 new start-up community schools sponsored by LEAs, over and above the number of such community schools open as of May 1, 2005, could open until July 1, 2007. The bill required that a lottery be held to determine the order in which schools would be able to open. Schools eligible for the lottery were those that intended to open in the 2005-2006 school year. A moratorium on Internet-based community schools was also introduced [ORC §3314.013(A)(6)] and will remain in effect until the enactment of internet-based school standards by the general assembly. Community school contracts for Internet-based community schools that were not open for instruction as of May 1, 2005, became void by operation of law as a result of H.B. 66.

Operator Provision

H.B. 66 [ORC §3314.014] introduced an operator provision that applies to district and non-district sponsored brick-and-mortar start-up community schools and will apply to Internet-based start-up community schools when the moratorium on Internet-based schools ends. Under this legislation, an operator is defined as an organization that manages the daily operations of a community school pursuant to a contract with a governing authority. The operator provision allows a governing authority, in partnership with an operator that has managed an academically successful community school (based on the most recent Local Report Card rating), to open a new start-up community school above the community school cap. The number of such schools that an operator may open under this provision may not exceed the number of community schools, excluding site-based conversions, managed by the

operator, which are rated as excellent, effective, or continuous improvement. [Note: subsequent legislation modified the operator provision].

Sponsorship Limits

Prior to H.B. 66 [ORC §3314.015], law did not limit the number of community schools that could be sponsored by an individual community school sponsor. H.B. 66 allowed sponsors of 50 or fewer schools open as of May 1, 2005, to continue sponsoring up to 50 schools. Sponsors who were authorizers of more than 50, but less than 75 schools, open as of May 1, 2005, were permitted to continue sponsoring those schools. However, those sponsors were not eligible to authorize any additional schools and their approved number of schools will decrease by one for every school that permanently closes until the number of schools sponsored is 50. Sponsors that had more than 75 schools open as of May 1, 2005, were permitted to continue sponsoring those schools until June 30, 2006. After June 30, 2006, the sponsor was capped at 75 schools. Moreover, the approved number of schools shall decrease by one for every school that permanently closes until the number of schools sponsored is 50.

Sponsor Requirements

H.B. 66 removed the provision in law that referenced the limitation on newly approved 501(c)(3) organizations regarding initial sponsorship of only those schools formerly sponsored by the State Board. Such organizations are free to engage in sponsorship agreements with community schools and are limited only by sponsor caps and geographical assignment within Ohio.

Community School Contracts

Several changes to community school contracts were made as a result of H.B. 66. New community school contracts for both new start-up and conversion community schools shall be adopted no later than the March 15th [ORC §3314.02(D)] prior to the school year in which the community school intends to open. Beginning in the 2006-2007 school year, community schools must open for operations no later than Sept. 30, unless the school's mission is solely to serve a high school dropout population. Contracts with community schools that have not opened expire within one year of the contract's execution [ORC §3314.03(a)(25)].

Withdrawal of E-School Students for Failure to Take Achievement Tests

H.B. 66 required Internet-based schools to withdraw from enrollment any student who was enrolled at the time of, and required to take the spring administration of their grade-level Achievement or Graduation Tests, but who failed to take one or more of those grade-level tests for two consecutive years [ORC §3314.26 (A)]. H.B. 530 added that the withdrawal requirement applies regardless of whether or not the Superintendent of Public Instruction granted the student a waiver from the missed test(s).

Exclusion of Certain Students from Community School Enrollment Count

According to H.B. 530, students must be excluded from enrollment for funding purposes in a community school if they have already graduated from a nonpublic high school [ORC §3314.08(P)].

Early Graduation

H.B. 530 permitted a student who has completed all curriculum requirements, including the Ohio Graduation Test, to leave school when the graduation requirements are completed. Such students who graduate early will be counted in the school's enrollment calculations for funding purposes for the portion of year the student attended [ORC §3313.61].

Federal School Food Programs and Community Schools

H.B. 530 required all community schools, with the exception of e-schools, to establish both breakfast and lunch programs, pursuant to the National School Lunch Act, if at least one-fifth of the students are eligible under federal requirements for free school food programs. The bill also required community schools to offer federal food-service programs during summer intervention services and any other summer intervention program required by law. If the governing authority of a community school determines that, for financial reasons, it cannot comply with the school-food program requirements, it must communicate to the parents its decision not to comply. If the community school does provide school lunch programs, the school must apply for state and federal funds under division (B) of ORC §3313.813 and comply with any associated State Board standards [ORC §3314.02(C)(1)(f)].

Conflict of Interest

H.B. 530 determined that a community school's governing authority members cannot be employed by the community school, nor have an interest in any contract awarded by the governing authority, except under specified circumstances [ORC §3314.03(A)(11)(e)].

Deadline for Signing a Community School Contract

Prior to H.B. 530, community school contracts were required to be adopted by March 15 of the year in which the school planned to open. H.B. 530 clarified time differences between adopting and executing contracts, and added a new responsibility for notification of a contract's signing. With H.B. 530, beginning Sept. 29, 2005, adoption of the contract shall occur not later than the 15th day of March and signing of the contract shall occur not later than the 15th day of May, prior to the school year in which the school will open. The governing authority shall notify ODE within 24 hours of the signing of a community school contract [ORC §3314.02(D)].

Qualifications of Sponsors, Including a Prohibition on a Community School Sponsoring Another Community School

All traditional public school districts, educational service centers, the 13 state universities and certain federal non-profit entities are eligible to sponsor start-up community schools. Any such eligible entity seeking the authority to sponsor start-up community schools after April 8, 2003, must apply to and be approved by ODE. Prior to H.B. 530, a federal non-profit entity was required to have assets of at least \$500,000 and be education-oriented in its mission. H.B. 530 required federal non-profit entities to: (1) have a demonstrated record of financial responsibility; (2) have a demonstrated record of successful implementation of education programs; and (3) not be a community school [ORC §3314.02(C)(1)(f)].

Disposal of Real Property

A school district's board of education must offer to the governing authorities of start-up community schools located within the school district's territory, any real property that is suitable for classroom space for academic instruction, administration, storage, or any other educational purpose, if the property has not been used for one full school year and the board has not adopted a resolution outlining a plan for using the property for any of those purposes within the next three school years. The property must be offered at a price not higher than the appraised fair market value of that property, and it must be sold to the first bidder. The same is true if the board of education decides to dispose of such real property that has been used within one year [ORC §3313.41 and §3314.051].

Reduction in Number of Schools for Approved Sponsors

Approved community school sponsors have sponsor caps established in their sponsorship agreements and other sponsors have caps established in law, all with an ultimate maximum of 50 schools under their authorization [ORC §3314.015(B)(1)(c)]. Under H.B. 79, enacted in March 2007, sponsors will have those caps reduced by one for every school that permanently closes.

Restrictions on Start-Up Community School Governing Authorities

An individual may be on no more than two start-up community school governing authorities at the same time [ORC §3314.02(E)(2)]. Governing authority members are limited to a maximum payment of \$125 per meeting attended and per month [ORC §3314.025]. If an individual is a member of more than one governing authority, and the governing authorities meet at the same place and time, the combined compensation for attending both schools' governing authority meetings may be no greater than \$125. If the school is operated by a management company, the stipend is to be paid by the management company out of funds paid to the management company by the school. Otherwise, the stipend is to be paid by the fiscal officer from the operating funds of the school's treasury.

Neither governing authority members of start-up community schools nor their immediate relatives may not become owners, employees or consultants of any community school operator (profit or non-profit) until they have been removed from membership on the governing authority for at least one year [ORC §3314.02(E)(3)].

Operator Provision

H.B. 79 included language permitting a one-time, narrowly focused opportunity for a governing authority to replicate a currently operating, successfully rated community school. Specifically, a governing authority was eligible to use the Operator Provision if it had been in charge of a successful community school for four years and had not used a management company to oversee the daily operations of that community school. A further and more general refinement of the Operator Provision is found in H.B. 276, which expanded on the H.B. 79 definition to include an individual who, acting under a contract with the governing authority, was responsible for the success of the school.

Rights of a Community School Operator

If a community school's governing authority intends to terminate its contract with a school's operator, it must notify the operator of that intent. As a result of H.B. 79, the operator has a right to appeal the governing authority's decision to terminate. If the current sponsor has sponsored the school for less than 12 months, the appeal is made to the State Board of Education. The appeal is made to the sponsor if it has sponsored the school for at least 12 months. Consideration of the appeal is based on the operator's compliance with certain requirements and the school's satisfactory academic progress as outlined in the community school's contract with its sponsor. If the sponsor or the State Board of Education finds in favor of the operator, the sponsor shall remove the existing governing authority and the operator shall appoint a new governing authority [ORC §3314.026].

Computers for E-Community School Students

H.B. 79 introduced several changes to the elements required in a community school contract. Each student enrolled in an e-community school is entitled to a computer provided by that e-community school. The parent of the student may, however, waive the entitlement. E-community schools must provide written notice of the computer entitlement and waiver conditions to a parent upon his or her request to enroll their child [ORC §3314.22].

Value-Added and School Closures Due to Poor Academic Performance

H.B. 79 replaced 'expected gains', an earlier provision that would have required the State Board to adopt a system for determining academic growth of students within a specified time period, with the value-added system. Valued-added performance measures and state designations (ratings) will be used to determine which community schools will be required to permanently close. This applies to any community school that meets one of several sets of criteria after July 1, 2008. A school will be required to permanently close at the end of the school year during which the school first becomes subject to this law as a result of meeting the established criteria.

For schools with grade levels subject to value-added, both value-added performance and performance on state designations will be used to determine whether or not the school must close. For schools without grade levels subject to value-added, only performance on state designations will be used in the determination.

The governing authority of a school closed for poor performance under the value-added system will not be allowed to enter into a contract with any other sponsor. Community schools that serve a majority of students who meet a strict definition of dropout recovery will be able to apply for exemption from the requirement to close provided they meet a series of qualifying criteria. ODE will not grant a waiver to any community school that did not qualify for such a waiver when it initially began operations, without the approval of the State Board of Education [ORC §3314.35 and §3314.36].

Changes to Terms of Community School Contracts

H.B. 79 added new requirements for community schools having to do with: employee and student records; adoption of school safety plans; professional conduct and reporting conduct unbecoming to the teaching profession; and display of the United States and Ohio mottoes [ORC §3314.03(A)(11)(d)].

127th General Assembly 2007-2008

H.B. 119, enacted by the 127th General Assembly in fall 2007, contributed to the further development of Ohio community schools as a result of a number of key features incorporated into this legislation. The following are some of the sections that relate to community schools.

Operator Provision and the Opening of New Community Schools

The moratorium on the opening of new schools, in place since 2005, was lifted by this legislation. However, new start-up schools may open if the school's governing authority contracts with an operator that manages the operations of other schools in the United States that perform at a level higher than what Ohio has defined as academic watch [ORC §3314.016(A)]. New start-up schools may open under the Operator Provision if the operator manages schools in Ohio or another state that perform at a level rated equivalent to continuous improvement or better.

Penalties for Reporting Inaccurate EMIS Data

Under ORC §3301.0714, ODE is permitted to act against any school or district that fails to properly report EMIS data. ODE may withhold up to 10 percent of state payments for the fiscal year and require a corrective action plan. Additional steps in the progression include withholding up to 30 percent of state payments or issuing a revised report card.

Community School Sponsor Approval

Any entity that wishes to become a sponsor in Ohio and that sponsors or operates schools outside of Ohio must sponsor or operate at least one school in another state that is rated equivalent to continuous improvement or better. Previously, the out-of-state school had to be rated comparable to academic watch or better [ORC §3314.015(B)(1)].

Community School Sponsor Territory

Educational service centers may sponsor schools within their service area and contiguous counties. ORC §3314.02 allows ESCs to renew contracts with community schools it is already sponsoring and which are outside its territory.

Community School Payments

ORC §3314.08 allows ODE to more fairly allocate an FTE for a community school student attending multiple education providers during a school year to ensure that all educational entities receive their share of funding for time spent educating the student. Currently, community school students may enroll in career technical programs and the community school retains a percentage of the state aid for administrative purposes.

Transportation

According to ORC §3314.091, community schools may provide their own transportation services for students and subsequently receive funding directly from the state for that

service, under prescribed circumstances, including the responsibility of the community school governing authority to provide written notification to the public school district of residence by a specified date that it is accepting the responsibility for providing such pupil transportation services.

Community School Sponsor Assurances

ORC §3314.19 establishes a number of pre-opening requirements for all community schools. The sponsor's confirmation of these requirements must be submitted to OCS for prior to the beginning of each school year. These additional requirements, which strengthen those already in rule, include the sponsor's receipt of detailed plans from the school for providing special education and related services to students with disabilities and the demonstrated capacity to provide those services. In addition, school personnel must have the necessary training, knowledge and resources to properly use and submit information to all databases maintained by ODE for the collection of education data.

Unauditable Community Schools

The Auditor of State (AOS) must provide written notification of a finding that a community school is unauditable to the school, its sponsor, and ODE, and post the notification on its Web site. A sponsor of an unauditable community school is prohibited from entering into contracts with additional community schools until the AOS completes a financial audit of the school. The sponsor is also required to respond to the AOS describing the actions it will take as a result of the unauditable finding. ODE must cease all state payments to a community school that fails to make progress in bringing its records into auditable condition within 90 days of being declared unauditable. ODE shall release withheld funds when the AOS is able to complete an audit of the school [ORC §117.41 Unauditable Section 269.60 of the Biennial Budget Bill].

Distribution of Assets of a Closed Community School

ORC §3314.074 specifies that upon the closure of a community school, there is guidance regarding the order of debt payment. Should any funds remain, they are returned to the general revenue fund. Funds remaining after debts are paid are returned on a proportional basis to the districts of residence of students attending the closed community school.

Community School Operation from Residential Facilities

Any community school that was not open for operation as of May 1, 2005, is prohibited from operating as a community school located within certain residential facilities that receive and care for children [Temporary Law Section 269.60.10].

District and Building Performance Ratings

Like their traditional district counterparts, restrictions are placed upon the maximum Local Report Card rating a school may receive, depending upon the percentage of students not tested. These restrictions do not apply to dropout recovery community schools [ORC §3314.03(A)(11)(d), referencing §3302.03].

Miscellaneous Changes

In the final portion of the 2007-2008 biennium session, HB 562 addressed several issues that related to sponsorship, location of community schools, joint purchase agreements and a demonstration project for dropout recovery data analysis [ORC §3314.37].

ESC Eligibility to Sponsor Conversion Schools

Under the provisions of H.B. 562, educational service centers are permitted to sponsor conversion community schools provided such schools are housed in an existing facility used by the ESC. Previously, only school districts could sponsor conversion community schools ORC §3314.02 and ORC §3314.03]

Location in Two School Districts

This legislation allowed a start-up community school to be established in two school districts under the same contract if 1) at least one of the districts is designated as challenged; 2) no more than one facility is operated in each district; 3) grades are not duplicated in the facilities and; 4) transportation does not exceed 30 minutes in direct travel time between the facilities [ORC §3314.02(F) and §3314.05(A), (B)(2) and B(3)].

Community School Pooling Agreements

The governing authorities of two or more community schools are authorized to enter into "pooling agreements" where the schools may purchase health insurance, secure liability insurance, purchase goods and services, or provide transportation for students enrolled in the respective schools [ORC §3314.018].

Demonstration Project – Dropout Recovery

As an acknowledgement that more research is necessary to examine the efficacy of dropout-recovery programs, H.B 562 established a five-year demonstration project [ORC §3314.37] involving the three ISUS community schools in Dayton. These schools, the ISUS Institutes of Construction Technology, Manufacturing, and Health Care, will be the subjects of data collection and analysis from 2008-2013 to assist in improving dropout-recovery programs, examine methods used in each program, provide tools to evaluate other community school dropout recovery programs, initiate accountability measures for like schools, and inform future curriculum and programming decisions in the area of dropout recovery.