

As Reported by the Senate Finance Committee

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Am. S. B. No. 247

Senators Brown, Lehner

**Cosponsors: Senators Bacon, Cafaro, Hite, Seitz, Tavares, Thomas, Yuko, Coley,
Beagle, Skindell**

A BILL

To amend section 3313.813 of the Revised Code to 1
require school districts to allow approved 2
summer food service program sponsors to use 3
school facilities to provide food service for 4
summer intervention services under certain 5
conditions. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3313.813 of the Revised Code be 7
amended to read as follows: 8

Sec. 3313.813. (A) As used in this section: 9

(1) "Outdoor education center" means a public or nonprofit 10
private entity that provides to pupils enrolled in any public or 11
chartered nonpublic elementary or secondary school an outdoor 12
educational curriculum that the school considers to be part of 13
its educational program. 14

(2) "Outside-school-hours care center" has the meaning 15
established in 7 C.F.R. 226.2. 16

(B) The state board of education shall establish standards 17
for a school lunch program, school breakfast program, child and 18
adult care food program, special food service program for 19
children, summer food service program for children, special milk 20
program for children, food service equipment assistance program, 21
and commodity distribution program established under the 22
"National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 23
1751, as amended, and the "Child Nutrition Act of 1966," 80 24
Stat. 885, 42 U.S.C. 1771, as amended. Any board of education of 25
a school district, nonprofit private school, outdoor education 26
center, child care institution, outside-school-hours care 27
center, or summer camp desiring to participate in such a program 28
or required to participate under this section shall, if eligible 29
to participate under the "National School Lunch Act," as 30
amended, or the "Child Nutrition Act of 1966," as amended, make 31
application to the state board of education for assistance. The 32
board shall administer the allocation and distribution of all 33
state and federal funds for these programs. 34

(C) The state board of education shall require the board 35
of education of each school district to establish and maintain a 36
school breakfast, lunch, and summer food service program 37
pursuant to the "National School Lunch Act" and the "Child 38
Nutrition Act of 1966," as described in divisions (C)(1) to (4) 39
of this section. 40

(1) The state board shall require the board of education 41
in each school district to establish a breakfast program in 42
every school where at least one-fifth of the pupils in the 43
school are eligible under federal requirements for free 44
breakfasts and to establish a lunch program in every school 45
where at least one-fifth of the pupils are eligible for free 46
lunches. The board of education required to establish a 47

breakfast program under this division may make a charge in 48
accordance with federal requirements for each reduced price 49
breakfast or paid breakfast to cover the cost incurred in 50
providing that meal. 51

(2) The state board shall require the board of education 52
in each school district to establish a breakfast program in 53
every school in which the parents of at least one-half of the 54
children enrolled in the school have requested that the 55
breakfast program be established. The board of education 56
required to establish a program under this division may make a 57
charge in accordance with federal requirements for each meal to 58
cover all or part of the costs incurred in establishing such a 59
program. 60

(3) The state board shall require the board of education 61
in each school district to establish one of the following for 62
summer intervention services described in division (D) of 63
section 3301.0711 or provided under section 3313.608 of the 64
Revised Code, and any other summer intervention program required 65
by law: 66

(a) An extension of the school breakfast program pursuant 67
to the "National School Lunch Act" and the "Child Nutrition Act 68
of 1966"; 69

(b) An extension of the school lunch program pursuant to 70
those acts; 71

(c) A summer food service program pursuant to those acts. 72

(4) (a) If the board of education of a school district 73
determines that, for financial reasons, it cannot comply with 74
division (C)(1) or (3) of this section, the district board may 75
choose not to comply with either or both divisions, except as 76

provided in ~~division~~divisions (C) (4) (b) and (c) of this 77
section. The district board publicly shall communicate to the 78
residents of the district, in the manner it determines 79
appropriate, its decision not to comply. 80

(b) If a district board chooses not to comply with 81
division (C) (1) of this section, the state board nevertheless 82
shall require the district board to establish a breakfast 83
program in every school where at least one-third of the pupils 84
in the school are eligible under federal requirements for free 85
breakfasts and to establish a lunch program in every school 86
where at least one-third of the pupils are eligible for free 87
lunches. The district board may make a charge in accordance with 88
federal requirements for each reduced price breakfast or paid 89
breakfast to cover the cost incurred in providing that meal. 90

(c) If the board of education of a school district chooses 91
not to comply with division (C) (3) of this section, the state 92
board nevertheless shall require the district board to permit an 93
approved summer food service program sponsor to use school 94
facilities located in a school building attendance area where at 95
least one-half of the pupils are eligible for free lunches. 96

The department of education shall post in a prominent 97
location on the department's web site a list of approved summer 98
food service program sponsors that may use school facilities 99
under this division. 100

Subject to the provisions of sections 3313.75 and 3313.77 101
of the Revised Code, a school district may charge the summer 102
food service program sponsor a reasonable fee for the use of 103
school facilities that may include the actual cost of custodial 104
services, charges for the use of school equipment, and a 105
prorated share of the utility costs as determined by the 106

district board. A school district shall require the summer food 107
service program sponsor to indemnify and hold harmless the 108
district from any potential liability resulting from the 109
operation of the summer food service program under this 110
division. For this purpose, the district shall either add the 111
summer food service program sponsor, as an additional insured 112
party, to the district's existing liability insurance policy or 113
require the summer food service program sponsor to submit 114
evidence of a separate liability insurance policy, for an amount 115
approved by the district board. The summer food service program 116
sponsor shall be responsible for any costs incurred in obtaining 117
coverage under either option. 118

(d) If a school district cannot for good cause comply with 119
the requirements of division (C) (2) or (4) (b) or (c) of this 120
section at the time the state board determines that a district 121
is subject to these requirements, the state board shall grant a 122
reasonable extension of time. Good cause for an extension of 123
time shall include, but need not be limited to, economic 124
impossibility of compliance with the requirements at the time 125
the state board determines that a district is subject to them. 126

(D) (1) The state board shall accept the application of any 127
outdoor education center in the state making application for 128
participation in a program pursuant to division (B) of this 129
section. 130

(2) For purposes of participation in any program pursuant 131
to this section, the board shall certify any outdoor education 132
center making application as an educational unit that is part of 133
the educational system of the state, if the center: 134

(a) Meets the definition of an outdoor education center; 135

(b) Provides its outdoor education curriculum to pupils on 136
an overnight basis so that pupils are in residence at the center 137
for more than twenty-four consecutive hours; 138

(c) Operates under public or nonprofit private ownership 139
in a single building or complex of buildings. 140

(3) The board shall approve any outdoor education center 141
certified under this division for participation in the program 142
for which the center is making application on the same basis as 143
any other applicant for that program. 144

(E) Any school district board of education or chartered 145
nonpublic school that participates in a breakfast program 146
pursuant to this section may offer breakfast to pupils in their 147
classrooms during the school day. 148

(F) Notwithstanding anything in this section to the 149
contrary, in each fiscal year in which the general assembly 150
appropriates funds for purposes of this division, the board of 151
education of each school district and each chartered nonpublic 152
school that participates in a breakfast program pursuant to this 153
section shall provide a breakfast free of charge to each pupil 154
who is eligible under federal requirements for a reduced price 155
breakfast. 156

Section 2. That existing section 3313.813 of the Revised 157
Code is hereby repealed. 158