

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 616

Representatives Loychik, Schmidt

A BILL

To amend sections 3313.21, 3314.03, and 3326.11 and 1
to enact section 3313.6029 of the Revised Code 2
regarding the promotion and teaching of divisive 3
or inherently racist concepts in public schools. 4

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

Section 1. That sections 3313.21, 3314.03, and 3326.11 be 5
amended and section 3313.6029 of the Revised Code be enacted to 6
read as follows: 7

Sec. 3313.21. (A) ~~The~~ Subject to division (D) of this 8
section, the board of education of each school district shall be 9
the sole authority in determining and selecting all of the 10
following to be used in the schools under its control: 11

(1) Textbooks, pursuant to section 3329.08 of the Revised 12
Code, and reading lists; 13

(2) Instructional materials; 14

(3) Academic curriculum. 15

(B) The board of education of each school district may 16
permit educators to create instructional materials, including 17
textbooks, that are consistent with the curriculum adopted by 18

the district board for use in the educators' classrooms. 19

(C) Nothing in this section is intended to promote or 20
encourage the utilization of any particular text or source 21
material on a statewide basis. 22

(D) The school district board shall not select any 23
textbook, instructional material, or academic curriculum that 24
promotes any divisive or inherently racist concept described in 25
section 3313.6029 of the Revised Code. 26

Sec. 3313.6029. (A) As used in this section: 27

(1) "Divisive or inherently racist concepts" include all 28
of the following: 29

(a) Critical race theory; 30

(b) Intersectional theory; 31

(c) The 1619 project; 32

(d) Diversity, equity, and inclusion learning outcomes; 33

(e) Inherited racial guilt; 34

(f) Any other concept that the state board of education 35
defines as divisive or inherently racist, in accordance with 36
rules adopted under Chapter 119. of the Revised Code. 37

(2) "State scholarship program" has the same meaning as in 38
section 3301.0711 of the Revised Code. 39

(B) (1) No school district, community school established 40
under Chapter 3314. of the Revised Code, STEM school established 41
under Chapter 3326. of the Revised Code, or nonpublic school 42
that enrolls students who are participating in a state 43
scholarship program shall do any of the following: 44

(a) Teach, use, or provide for use by any student any curriculum, instructional material, or assignment designed to promote or endorse divisive or inherently racist concepts; 45
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(b) Offer training or professional development to employees that promote or endorse divisive or inherently racist concepts. 48
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(2) No school district, community school, STEM school, nonpublic school that enrolls students who are participating in a state scholarship program, or any employee or other third party representing a school district or school shall do either of the following: 51
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(a) With respect to a student in any of grades kindergarten through three, teach, use, or provide any curriculum or instructional materials on sexual orientation or gender identity; 56
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(b) With respect to a student in any of grades four through twelve, teach, use, or provide any curriculum or instructional materials on sexual orientation or gender identity in any manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards. 60
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(C) No teacher shall receive continuing education credit or other credit required for licensure renewal for any seminar or other program that teaches, promotes, or endorses divisive or inherently racist concepts. 65
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(D) (1) The state board shall establish a procedure in accordance with Chapter 119. of the Revised Code by which an individual may file a complaint against a teacher, school administrator, or school district superintendent alleging a violation of division (B) or (C) of this section. 69
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(2) The state board shall afford the teacher, school administrator, or school district superintendent an opportunity for a hearing in accordance with sections 119.01 to 119.13 of the Revised Code. 74
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(3) If the superintendent of public instruction finds that the teacher, school administrator, or school district superintendent violated division (B) or (C) of this section, the department of education shall issue an adjudication order in accordance with section 119.06 of the Revised Code taking licensure action based upon the severity of the offense, including, but not limited to, an official licensure admonishment, licensure suspension, or licensure revocation. 78
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(4) If the superintendent of public instruction finds through a complaint filed in accordance with division (D) of this section that a school district has violated division (B) or (C) of this section, the department of education shall withhold funds from the district based upon the severity of the offense and time frame by which the district complies, which may include a tiered funding penalty, terms for restoration of those funds in the event of compliance, and any other procedures that the department determines are necessary to enforce the prohibitions described in divisions (B) and (C) of this section. 86
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(E)(1) In addition to the rules prescribed by division (D) of this section, the state board shall adopt rules in accordance with Chapter 119. of the Revised Code to govern the implementation of and monitor compliance with the provisions of this section. 96
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(2) The state board shall not adopt any standards, model curricula, professional development resources, classroom resources, or assessments promoting divisive or inherently 101
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racist concepts as described in this section. 104

Sec. 3314.03. A copy of every contract entered into under 105
this section shall be filed with the superintendent of public 106
instruction. The department of education shall make available on 107
its web site a copy of every approved, executed contract filed 108
with the superintendent under this section. 109

(A) Each contract entered into between a sponsor and the 110
governing authority of a community school shall specify the 111
following: 112

(1) That the school shall be established as either of the 113
following: 114

(a) A nonprofit corporation established under Chapter 115
1702. of the Revised Code, if established prior to April 8, 116
2003; 117

(b) A public benefit corporation established under Chapter 118
1702. of the Revised Code, if established after April 8, 2003. 119

(2) The education program of the school, including the 120
school's mission, the characteristics of the students the school 121
is expected to attract, the ages and grades of students, and the 122
focus of the curriculum; 123

(3) The academic goals to be achieved and the method of 124
measurement that will be used to determine progress toward those 125
goals, which shall include the statewide achievement 126
assessments; 127

(4) Performance standards, including but not limited to 128
all applicable report card measures set forth in section 3302.03 129
or 3314.017 of the Revised Code, by which the success of the 130
school will be evaluated by the sponsor; 131

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;	132 133 134
(6) (a) Dismissal procedures;	135
(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in seventy-two consecutive hours of the learning opportunities offered to the student.	136 137 138 139 140 141
(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;	142 143
(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.	144 145 146 147 148 149
(9) An addendum to the contract outlining the facilities to be used that contains at least the following information:	150 151
(a) A detailed description of each facility used for instructional purposes;	152 153
(b) The annual costs associated with leasing each facility that are paid by or on behalf of the school;	154 155
(c) The annual mortgage principal and interest payments that are paid by the school;	156 157
(d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the	158 159

operator, if any.	160
(10) Qualifications of teachers, including a requirement	161
that the school's classroom teachers be licensed in accordance	162
with sections 3319.22 to 3319.31 of the Revised Code, except	163
that a community school may engage noncertificated persons to	164
teach up to twelve hours or forty hours per week pursuant to	165
section 3319.301 of the Revised Code.	166
(11) That the school will comply with the following	167
requirements:	168
(a) The school will provide learning opportunities to a	169
minimum of twenty-five students for a minimum of nine hundred	170
twenty hours per school year.	171
(b) The governing authority will purchase liability	172
insurance, or otherwise provide for the potential liability of	173
the school.	174
(c) The school will be nonsectarian in its programs,	175
admission policies, employment practices, and all other	176
operations, and will not be operated by a sectarian school or	177
religious institution.	178
(d) The school will comply with sections 9.90, 9.91,	179
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710,	180
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3302.037,	181
3313.472, 3313.50, 3313.539, 3313.5310, 3313.608, 3313.609,	182
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020,	183
3313.6024, 3313.6025, 3313.6026, <u>3313.6029</u> , 3313.643, 3313.648,	184
3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667,	185
3313.668, 3313.669, 3313.6610, 3313.67, 3313.671, 3313.672,	186
3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719,	187
3313.7112, 3313.721, 3313.80, 3313.814, 3313.816, 3313.817,	188

3313.818, 3313.86, 3313.89, 3313.96, 3319.073, 3319.077, 189
3319.078, 3319.238, 3319.318, 3319.321, 3319.39, 3319.391, 190
3319.393, 3319.41, 3319.46, 3320.01, 3320.02, 3320.03, 3321.01, 191
3321.041, 3321.13, 3321.14, 3321.141, 3321.17, 3321.18, 3321.19, 192
3323.251, 3327.10, 4111.17, 4113.52, 5502.262, and 5705.391 and 193
Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., 194
and 4167. of the Revised Code as if it were a school district 195
and will comply with section 3301.0714 of the Revised Code in 196
the manner specified in section 3314.17 of the Revised Code. 197

(e) The school shall comply with Chapter 102. and section 198
2921.42 of the Revised Code. 199

(f) The school will comply with sections 3313.61, 200
3313.611, 3313.614, 3313.617, 3313.618, and 3313.6114 of the 201
Revised Code, except that for students who enter ninth grade for 202
the first time before July 1, 2010, the requirement in sections 203
3313.61 and 3313.611 of the Revised Code that a person must 204
successfully complete the curriculum in any high school prior to 205
receiving a high school diploma may be met by completing the 206
curriculum adopted by the governing authority of the community 207
school rather than the curriculum specified in Title XXXIII of 208
the Revised Code or any rules of the state board of education. 209
Beginning with students who enter ninth grade for the first time 210
on or after July 1, 2010, the requirement in sections 3313.61 211
and 3313.611 of the Revised Code that a person must successfully 212
complete the curriculum of a high school prior to receiving a 213
high school diploma shall be met by completing the requirements 214
prescribed in section 3313.6027 and division (C) of section 215
3313.603 of the Revised Code, unless the person qualifies under 216
division (D) or (F) of that section. Each school shall comply 217
with the plan for awarding high school credit based on 218
demonstration of subject area competency, and beginning with the 219

2017-2018 school year, with the updated plan that permits 220
students enrolled in seventh and eighth grade to meet curriculum 221
requirements based on subject area competency adopted by the 222
state board of education under divisions (J) (1) and (2) of 223
section 3313.603 of the Revised Code. Beginning with the 2018- 224
2019 school year, the school shall comply with the framework for 225
granting units of high school credit to students who demonstrate 226
subject area competency through work-based learning experiences, 227
internships, or cooperative education developed by the 228
department under division (J) (3) of section 3313.603 of the 229
Revised Code. 230

(g) The school governing authority will submit within four 231
months after the end of each school year a report of its 232
activities and progress in meeting the goals and standards of 233
divisions (A) (3) and (4) of this section and its financial 234
status to the sponsor and the parents of all students enrolled 235
in the school. 236

(h) The school, unless it is an internet- or computer- 237
based community school, will comply with section 3313.801 of the 238
Revised Code as if it were a school district. 239

(i) If the school is the recipient of moneys from a grant 240
awarded under the federal race to the top program, Division (A), 241
Title XIV, Sections 14005 and 14006 of the "American Recovery 242
and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, 243
the school will pay teachers based upon performance in 244
accordance with section 3317.141 and will comply with section 245
3319.111 of the Revised Code as if it were a school district. 246

(j) If the school operates a preschool program that is 247
licensed by the department of education under sections 3301.52 248
to 3301.59 of the Revised Code, the school shall comply with 249

sections 3301.50 to 3301.59 of the Revised Code and the minimum 250
standards for preschool programs prescribed in rules adopted by 251
the state board under section 3301.53 of the Revised Code. 252

(k) The school will comply with sections 3313.6021 and 253
3313.6023 of the Revised Code as if it were a school district 254
unless it is either of the following: 255

(i) An internet- or computer-based community school; 256

(ii) A community school in which a majority of the 257
enrolled students are children with disabilities as described in 258
division (A) (4) (b) of section 3314.35 of the Revised Code. 259

(l) The school will comply with section 3321.191 of the 260
Revised Code, unless it is an internet- or computer-based 261
community school that is subject to section 3314.261 of the 262
Revised Code. 263

(12) Arrangements for providing health and other benefits 264
to employees; 265

(13) The length of the contract, which shall begin at the 266
beginning of an academic year. No contract shall exceed five 267
years unless such contract has been renewed pursuant to division 268
(E) of this section. 269

(14) The governing authority of the school, which shall be 270
responsible for carrying out the provisions of the contract; 271

(15) A financial plan detailing an estimated school budget 272
for each year of the period of the contract and specifying the 273
total estimated per pupil expenditure amount for each such year. 274

(16) Requirements and procedures regarding the disposition 275
of employees of the school in the event the contract is 276
terminated or not renewed pursuant to section 3314.07 of the 277

Revised Code;	278
(17) Whether the school is to be created by converting all	279
or part of an existing public school or educational service	280
center building or is to be a new start-up school, and if it is	281
a converted public school or service center building,	282
specification of any duties or responsibilities of an employer	283
that the board of education or service center governing board	284
that operated the school or building before conversion is	285
delegating to the governing authority of the community school	286
with respect to all or any specified group of employees provided	287
the delegation is not prohibited by a collective bargaining	288
agreement applicable to such employees;	289
(18) Provisions establishing procedures for resolving	290
disputes or differences of opinion between the sponsor and the	291
governing authority of the community school;	292
(19) A provision requiring the governing authority to	293
adopt a policy regarding the admission of students who reside	294
outside the district in which the school is located. That policy	295
shall comply with the admissions procedures specified in	296
sections 3314.06 and 3314.061 of the Revised Code and, at the	297
sole discretion of the authority, shall do one of the following:	298
(a) Prohibit the enrollment of students who reside outside	299
the district in which the school is located;	300
(b) Permit the enrollment of students who reside in	301
districts adjacent to the district in which the school is	302
located;	303
(c) Permit the enrollment of students who reside in any	304
other district in the state.	305
(20) A provision recognizing the authority of the	306

department of education to take over the sponsorship of the 307
school in accordance with the provisions of division (C) of 308
section 3314.015 of the Revised Code; 309

(21) A provision recognizing the sponsor's authority to 310
assume the operation of a school under the conditions specified 311
in division (B) of section 3314.073 of the Revised Code; 312

(22) A provision recognizing both of the following: 313

(a) The authority of public health and safety officials to 314
inspect the facilities of the school and to order the facilities 315
closed if those officials find that the facilities are not in 316
compliance with health and safety laws and regulations; 317

(b) The authority of the department of education as the 318
community school oversight body to suspend the operation of the 319
school under section 3314.072 of the Revised Code if the 320
department has evidence of conditions or violations of law at 321
the school that pose an imminent danger to the health and safety 322
of the school's students and employees and the sponsor refuses 323
to take such action. 324

(23) A description of the learning opportunities that will 325
be offered to students including both classroom-based and non- 326
classroom-based learning opportunities that is in compliance 327
with criteria for student participation established by the 328
department under division (H) (2) of section 3314.08 of the 329
Revised Code; 330

(24) The school will comply with sections 3302.04 and 331
3302.041 of the Revised Code, except that any action required to 332
be taken by a school district pursuant to those sections shall 333
be taken by the sponsor of the school. However, the sponsor 334
shall not be required to take any action described in division 335

(F) of section 3302.04 of the Revised Code. 336

(25) Beginning in the 2006-2007 school year, the school 337
will open for operation not later than the thirtieth day of 338
September each school year, unless the mission of the school as 339
specified under division (A) (2) of this section is solely to 340
serve dropouts. In its initial year of operation, if the school 341
fails to open by the thirtieth day of September, or within one 342
year after the adoption of the contract pursuant to division (D) 343
of section 3314.02 of the Revised Code if the mission of the 344
school is solely to serve dropouts, the contract shall be void. 345

(26) Whether the school's governing authority is planning 346
to seek designation for the school as a STEM school equivalent 347
under section 3326.032 of the Revised Code; 348

(27) That the school's attendance and participation 349
policies will be available for public inspection; 350

(28) That the school's attendance and participation 351
records shall be made available to the department of education, 352
auditor of state, and school's sponsor to the extent permitted 353
under and in accordance with the "Family Educational Rights and 354
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, 355
and any regulations promulgated under that act, and section 356
3319.321 of the Revised Code; 357

(29) If a school operates using the blended learning 358
model, as defined in section 3301.079 of the Revised Code, all 359
of the following information: 360

(a) An indication of what blended learning model or models 361
will be used; 362

(b) A description of how student instructional needs will 363
be determined and documented; 364

(c) The method to be used for determining competency,	365
granting credit, and promoting students to a higher grade level;	366
(d) The school's attendance requirements, including how	367
the school will document participation in learning	368
opportunities;	369
(e) A statement describing how student progress will be	370
monitored;	371
(f) A statement describing how private student data will	372
be protected;	373
(g) A description of the professional development	374
activities that will be offered to teachers.	375
(30) A provision requiring that all moneys the school's	376
operator loans to the school, including facilities loans or cash	377
flow assistance, must be accounted for, documented, and bear	378
interest at a fair market rate;	379
(31) A provision requiring that, if the governing	380
authority contracts with an attorney, accountant, or entity	381
specializing in audits, the attorney, accountant, or entity	382
shall be independent from the operator with which the school has	383
contracted.	384
(32) A provision requiring the governing authority to	385
adopt an enrollment and attendance policy that requires a	386
student's parent to notify the community school in which the	387
student is enrolled when there is a change in the location of	388
the parent's or student's primary residence.	389
(33) A provision requiring the governing authority to	390
adopt a student residence and address verification policy for	391
students enrolling in or attending the school.	392

(B) The community school shall also submit to the sponsor 393
a comprehensive plan for the school. The plan shall specify the 394
following: 395

(1) The process by which the governing authority of the 396
school will be selected in the future; 397

(2) The management and administration of the school; 398

(3) If the community school is a currently existing public 399
school or educational service center building, alternative 400
arrangements for current public school students who choose not 401
to attend the converted school and for teachers who choose not 402
to teach in the school or building after conversion; 403

(4) The instructional program and educational philosophy 404
of the school; 405

(5) Internal financial controls. 406

When submitting the plan under this division, the school 407
shall also submit copies of all policies and procedures 408
regarding internal financial controls adopted by the governing 409
authority of the school. 410

(C) A contract entered into under section 3314.02 of the 411
Revised Code between a sponsor and the governing authority of a 412
community school may provide for the community school governing 413
authority to make payments to the sponsor, which is hereby 414
authorized to receive such payments as set forth in the contract 415
between the governing authority and the sponsor. The total 416
amount of such payments for monitoring, oversight, and technical 417
assistance of the school shall not exceed three per cent of the 418
total amount of payments for operating expenses that the school 419
receives from the state. 420

(D) The contract shall specify the duties of the sponsor 421
which shall be in accordance with the written agreement entered 422
into with the department of education under division (B) of 423
section 3314.015 of the Revised Code and shall include the 424
following: 425

(1) Monitor the community school's compliance with all 426
laws applicable to the school and with the terms of the 427
contract; 428

(2) Monitor and evaluate the academic and fiscal 429
performance and the organization and operation of the community 430
school on at least an annual basis; 431

(3) Report on an annual basis the results of the 432
evaluation conducted under division (D) (2) of this section to 433
the department of education and to the parents of students 434
enrolled in the community school; 435

(4) Provide technical assistance to the community school 436
in complying with laws applicable to the school and terms of the 437
contract; 438

(5) Take steps to intervene in the school's operation to 439
correct problems in the school's overall performance, declare 440
the school to be on probationary status pursuant to section 441
3314.073 of the Revised Code, suspend the operation of the 442
school pursuant to section 3314.072 of the Revised Code, or 443
terminate the contract of the school pursuant to section 3314.07 444
of the Revised Code as determined necessary by the sponsor; 445

(6) Have in place a plan of action to be undertaken in the 446
event the community school experiences financial difficulties or 447
closes prior to the end of a school year. 448

(E) Upon the expiration of a contract entered into under 449

this section, the sponsor of a community school may, with the 450
approval of the governing authority of the school, renew that 451
contract for a period of time determined by the sponsor, but not 452
ending earlier than the end of any school year, if the sponsor 453
finds that the school's compliance with applicable laws and 454
terms of the contract and the school's progress in meeting the 455
academic goals prescribed in the contract have been 456
satisfactory. Any contract that is renewed under this division 457
remains subject to the provisions of sections 3314.07, 3314.072, 458
and 3314.073 of the Revised Code. 459

(F) If a community school fails to open for operation 460
within one year after the contract entered into under this 461
section is adopted pursuant to division (D) of section 3314.02 462
of the Revised Code or permanently closes prior to the 463
expiration of the contract, the contract shall be void and the 464
school shall not enter into a contract with any other sponsor. A 465
school shall not be considered permanently closed because the 466
operations of the school have been suspended pursuant to section 467
3314.072 of the Revised Code. 468

Sec. 3326.11. Each science, technology, engineering, and 469
mathematics school established under this chapter and its 470
governing body shall comply with sections 9.90, 9.91, 109.65, 471
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 472
3301.0714, 3301.0715, 3301.0729, 3301.948, 3302.037, 3313.14, 473
3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 474
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3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 476
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3321.18, 3321.19, 3321.191, 3323.251, 3327.10, 4111.17, 4113.52,	488
5502.262, and 5705.391 and Chapters 102., 117., 1347., 2744.,	489
3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of	490
the Revised Code as if it were a school district.	491
Section 2. That existing sections 3313.21, 3314.03, and	492
3326.11 of the Revised Code are hereby repealed.	493