

**As Passed by the Senate**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Am. S. B. No. 247**

**Senators Brown, Lehner**

**Cosponsors: Senators Bacon, Cafaro, Hite, Seitz, Tavares, Thomas, Yuko, Coley, Beagle, Skindell, Balderson, Eklund, Faber, Gardner, Gentile, Hackett, Hottinger, Hughes, LaRose, Manning, Obhof, Oelslager, Patton, Peterson, Sawyer, Schiavoni, Uecker, Williams**

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**A BILL**

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

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

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

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

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

(2) "Outside-school-hours care center" has the meaning

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 an overnight basis so that pupils are in residence at the center for more than twenty-four consecutive hours;	136 137 138
(c) Operates under public or nonprofit private ownership in a single building or complex of buildings.	139 140
(3) The board shall approve any outdoor education center certified under this division for participation in the program for which the center is making application on the same basis as any other applicant for that program.	141 142 143 144
(E) Any school district board of education or chartered nonpublic school that participates in a breakfast program pursuant to this section may offer breakfast to pupils in their classrooms during the school day.	145 146 147 148
(F) Notwithstanding anything in this section to the contrary, in each fiscal year in which the general assembly appropriates funds for purposes of this division, the board of education of each school district and each chartered nonpublic school that participates in a breakfast program pursuant to this section shall provide a breakfast free of charge to each pupil who is eligible under federal requirements for a reduced price breakfast.	149 150 151 152 153 154 155 156
<b>Section 2.</b> That existing section 3313.813 of the Revised Code is hereby repealed.	157 158