

ORC Ann. 3301.16

Current with Legislation passed by the 132nd General Assembly and filed with the Secretary of State through file 105 (SB 81), except for file 96 (HB 87).

Page's Ohio Revised Code Annotated > *Title 33: Education — Libraries (Chs. 3301 — 3385)* > *Chapter 3301: Department of Education (§§ 3301.01 — 3301.96)* > *Department of Education (§§ 3301.13 — 3301.30)*

§ 3301.16 Classifying and chartering of school districts and individual schools within district.

Pursuant to standards prescribed by the state board of education as provided in division (D) of [section 3301.07 of the Revised Code](#), the state board shall classify and charter school districts and individual schools within each district except that no charter shall be granted to a nonpublic school unless the school complies with divisions (K)(1) and (L) of [section 3301.0711](#), as applicable, and [sections 3301.164](#) and [3313.612 of the Revised Code](#).

In the course of considering the charter of a new school district created under [section 3311.26](#) or [3311.38 of the Revised Code](#), the state board shall require the party proposing creation of the district to submit to the board a map, certified by the county auditor of the county in which the proposed new district is located, showing the boundaries of the proposed new district. In the case of a proposed new district located in more than one county, the map shall be certified by the county auditor of each county in which the proposed district is located.

The state board shall revoke the charter of any school district or school which fails to meet the standards for elementary and high schools as prescribed by the board. The state board shall also revoke the charter of any nonpublic school that does not comply with divisions (K)(1) and (L) of [section 3301.0711](#), if applicable, and [sections 3301.164](#) and [3313.612 of the Revised Code](#).

In the issuance and revocation of school district or school charters, the state board shall be governed by the provisions of Chapter 119. of the Revised Code.

No school district, or individual school operated by a school district, shall operate without a charter issued by the state board under this section.

In case a school district charter is revoked pursuant to this section, the state board may dissolve the school district and transfer its territory to one or more adjacent districts. An equitable division of the funds, property, and indebtedness of the school district shall be made by the state board among the receiving districts. The board of education of a receiving district shall accept such territory pursuant to the order of the state board. Prior to dissolving the school district, the state board shall notify the appropriate educational service center governing board and all adjacent school district boards of education of its intention to do so. Boards so notified may make recommendations to the state board regarding the proposed dissolution and subsequent transfer of territory. Except as provided in [section 3301.161 of the Revised Code](#), the transfer ordered by the state board shall become effective on the date specified by the state board, but the date shall be at least thirty days following the date of issuance of the order.

A high school is one of higher grade than an elementary school, in which instruction and training are given in accordance with [sections 3301.07](#) and [3313.60 of the Revised Code](#) and which also offers other subjects of study more advanced than those taught in the elementary schools and such other subjects as may be approved by the state board of education.

An elementary school is one in which instruction and training are given in accordance with [sections 3301.07](#) and [3313.60 of the Revised Code](#) and which offers such other subjects as may be approved by the state board of education. In districts wherein a junior high school is maintained, the elementary schools in that district may be considered to include only the work of the first six school years inclusive, plus the kindergarten year.

History

126 v 655 (Eff 1-3-56); 132 v S 350 (Eff 12-1-67); 133 v S 197 (Eff 6-1-70); 135 v H 159 (Eff 9-30-75); 138 v H 204 (Eff 7-30-79); 145 v H 152 (Eff 7-1-93); 146 v H 117. Eff 9-29-95; 151 v H 66, § 101.01, eff. 9-29-05; 153 v H 1, § 101.01, eff. 10-16-09; [2011 HB 30](#), § 1, eff. July 1, 2011; [2011 HB 153](#), § 101.01, eff. June 30, 2011; [2013 HB 59](#), § 101.01, eff. Sept. 29, 2013; [2014 HB 487](#), § 1, eff. Sept. 17, 2014; [2016 HB 299](#), § 1, effective Aug 31, 2016; [2017 HB 49](#), § 101.01, effective Sep 29, 2017.

Annotations

Notes

Amendment Notes

The 2017 amendment by HB 49 substituted “sections 3301.164 and” for “section” in the first paragraph and in the second sentence of the third paragraph.

The 2016 amendment by HB 299 substituted “divisions (K)(1) and (L)” for “divisions (K)(1)(a) and (b)” in the first paragraph; and substituted “divisions (K)(1) and (L)” for “division (K)(1)(a)” in the second sentence of the third paragraph.

The 2014 amendment by HB 487 substituted “divisions (K)(1)(a) and (b)” for “division (K)(1)(a)” in the first paragraph; and made a stylistic change.

The 2013 amendment inserted “division (K)(1)(a) of section 3301.0711, if applicable, and” in the first paragraph; inserted “division (K)(1)(a) of section 3301.0711, if applicable, and” in the second sentence of the third paragraph.

The 2011 amendment by HB 153 deleted the last sentence of the third paragraph, which read: “The state board may revoke the charter of any school district that fails to meet the operating standards established under division (D)(3) of section 3301.07 of the Revised Code”; and deleted the last paragraph, which read: “A high school or an elementary school may consist of less than one or more than one organizational unit, as defined in sections 3306.02 and 3306.04 of the Revised Code.”

The 2011 amendment by HB 30 added the last sentence in the third paragraph.

153 v H 1, effective October 16, 2009, in the first paragraph, substituted “the school complies with section 3313.612 of the Revised Code” for “pursuant to division (K) of section 3301.0711 of the Revised Code the school elects to administer the tests prescribed by division (B) of section 3301.0710 of the Revised Code beginning July 1, 1995”; in the third paragraph, deleted “or, on or after July 1, 1995, does not participate in the testing program prescribed by division (B) of section 3301.0710 of the Revised Code” from the end; and added the final paragraph.

151 v H 66, effective September 29, 2005, redesignated the first paragraph as the first, third, and fourth paragraphs, and inserted the present second and fifth paragraphs.

Notes to Decisions

Nonpublic schools

Requirement to have charter to operate

Special education programs

Nonpublic schools

The testing requirements of [R.C. 3301.16](#) and 3313.162 which require private secondary schools to administer the same student proficiency test as public high schools and providing that a school can not grant a diploma to a student who had not achieved a particular level on that test did not violate due process and did not violate the school's right to free speech: [Ohio Ass'n of Indep. Sch. v. Goff, 92 F.3d 419, 1996 FED App. 0260P, 1996 U.S. App. LEXIS 20029 \(6th Cir. Ohio 1996\)](#), cert. denied, 520 U.S. 1104, 117 S. Ct. 1107, 137 L. Ed. 2d 309, 1997 U.S. LEXIS 1503 (U.S. 1997).

Requirement to have charter to operate

There is no specific statutory requirement that a school is required to have a charter to operate, that if it did not have one it could not operate, or that if it had one it would have to operate all grades included in its charter: [Ferris v. Paulding Exempted Village School Dist. Bd. of Edn., 7 Ohio App. 3d 163, 24 Ohio Op. 3d 400, 454 N.E.2d 957, 1982 Ohio App. LEXIS 11126 \(Ohio Ct. App., Paulding County 1982\)](#).

Special education programs

The term "school," in the context of [R.C. 3321.03](#) and [3321.04](#), refers to a school chartered by the state, pursuant to [R.C. 3301.16](#), and the term "special education program," in the context of [R.C. 3321.03](#) and [3321.04](#), refers to a special education program operated pursuant to State Board of Education standards and authorization: [Akron v. Lane, 65 Ohio App. 2d 90, 19 Ohio Op. 3d 56, 416 N.E.2d 642, 1979 Ohio App. LEXIS 8456 \(Ohio Ct. App., Summit County 1979\)](#).

Opinion Notes

ATTORNEY GENERAL OPINIONS

Under [R.C. 3301.16](#), the state board of education in reaching a determination of the qualification of a school for the granting of a high school charter, is governed by [R.C. 119.01](#) et seq.: 1959 OAG No. 345 (1959).

The term "chartered," as used in [R.C. 3317.13\(A\)\(2\)](#), as amended by Am. H.B. No.395 (eff. September 1, 1976), refers to charters issued to nonpublic schools by the State Board of Education, pursuant to [R.C. 3301.16](#). A teacher in a public school must be given credit for years of service, as that term is defined in [R.C. 3317.13\(A\)\(2\)](#), for the service rendered in a nonpublic school while such school had a charter issued by the State Board of Education: [1977 Ohio Op. Att'y Gen. No. 074 \(1977\)](#).

Research References & Practice Aids

Cross-References to Related Sections

Adjudication order permanently excluding pupil from public schools; board of education resolution requesting permanent exclusion; revocation; probationary admission, RC § [3313.662](#).

Adjustment where district liable for tuition for child in care of youth services department, RC § [3317.082](#).

Alternative disciplinary schools, RC § [3313.533](#).

Certification of teachers and administrators in nontax-supported schools, RC § [3301.071](#).

Disposal of excess and surplus supplies, RC § [125.13](#).

Referendum against transfer of school district, RC § [3301.161](#).

Ohio Administrative Code

Procedure: racially nondiscriminatory policies and practices for chartered schools, schools with approval to operate and nonpublic schools seeking same. **3 Ohio Sch. Law:** [OAC 3301-39-04](#).

Standards for kindergarten through twelfth grade. **3 Ohio Sch. Law:** [OAC ch. 3301-35](#).

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