

**Rule Summary and Fiscal Analysis (Part A)****Department of Education**

Agency Name

Division

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**3301-102-08**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Expected gains in student achievement.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB66**General Assembly: **126**Sponsor: **Calvert**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3301.07, 3314.36**

5. Statute(s) the rule, as filed, amplifies or implements: **3314.35, 3314.36**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The rule is being filed to comply with H.B. 66 of the 126th General Assembly, which directs the State Board of Education to adopt rules establishing reasonable standards for expected gains in student achievement and graduation rate for certain community schools.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

H.B. 66 of the 126th General Assembly places additional testing requirements on certain community schools for students in grades one through twelve. This rule establishes reasonable standards for expected gains in student achievement between the fall and spring administrations of reading and mathematics assessments and for expected gains in the graduation rate for community schools. The rule also describes the administration, participation and reporting requirements associated with the additional assessments.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

The websites listing acceptable norm-referenced and alternate assessments for determining expected gains and reporting guidelines are provided for in the rule.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

The lists of acceptable norm-reference tests and alternate assessments will be updated on a continual basis making it impractical for such lists to be included within the text of the rule. Community schools will need access to the most current lists, at all times. The most feasible way to achieve this end is to provide the web-addresses within the rule that will give community schools access to the current list of acceptable tests. If the lists were provided in the rule, it would be difficult to guarantee the reliability of the list to ODE customers. Reporting guidelines are also subject to frequent change and adjustment; therefore, it is infeasible for such guidelines to be included in an administrative rule.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

*Not Applicable.*

## 12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0

Staff resources are needed to evaluate and approve the list of acceptable norm-referenced tests, communicate the process used to determine inclusion or exclusion of norm-referenced tests, and write guidance and provide training on the manner in which data will be reported and how the data will be analyzed to determine whether the expected gains are achieved. The current data reporting system will need to be modified in order to accommodate the submission and analysis of the new data for the additional assessments and for graduation rate. It is estimated that the Department will expend roughly \$15,420 to implement the requirements established in the rule. However, the Department does not plan on adding staff to accommodate this work. Therefore, any additional costs will be absorbed by the Department.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

None.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The rule places additional costs on families whose children are enrolled in internet- or computer-based community schools as they will have to transport their children

to testing locations twice annually. For the year, the parent would make a minimum of two round trips, once in the fall and once in the spring. The cost to the traveler is estimated using the state reimbursement rate of \$0.30 per mile. The cost to parents is estimated at \$72.00 for two round trips twice per year using an assumed maximum distance of sixty miles, one way. The true amount will vary among families, depending on the actual trip distance involved.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
Yes	No	No	No

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

The cost of compliance would vary among community schools and depends largely on the number of students enrolled in a community school, the chosen assessment tool, and the number of years the school administers the assessments. There are costs in administering the tests as well as costs for failing to meet the expected gains. The test administration costs are different for facility-based community schools as opposed to internet- or computer-based community schools. For facility-based schools, the average estimated costs include the purchase of the tests; personnel time to administer and submit the tests for scoring and reporting the results to the Department of Education. There is also a cost for communicating to the parents about the required tests, the need to have their children ready to take the tests, and to communicate the results of the tests to the parents. For an internet- or computer-based community school, the average estimated costs include all the costs associated with facility-based schools plus the costs of securing facilities in which to administer the tests and travel time for personnel to administer the tests.

A survey was conducted of community schools and sponsors on the potential fiscal impact of the rule requirements and the estimated costs of compliance garnered from the responders ranged from a low of no additional costs to \$308 thousand. The variation in estimates provided by those who responded to the survey validates the Department's claim that the potential fiscal impact of the requirements enumerated in the rule would vary from school to school and would depend on a number of different factors, as provided above.

For internet-based schools that fail to meet the gains on any one of the three measures in any year, there is a systematic freezing of enrollment, which essentially caps revenue at the level of the first year the school failed to meet the expected gains. Both E-schools and site-based schools that fail to meet expected gains for three-consecutive years will be closed.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**
4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Analysis of rule requirements and survey of impacted community schools.

(a) Personnel Costs

Varies. Estimates range from none to \$31,815.

(b) New Equipment or Other Capital Costs

Varies. Estimates range from none to \$571.

(c) Operating Costs

Varies. Estimates range from none to \$21,429.

(d) Any Indirect Central Service Costs

Indirect estimated service costs range from \$2,179 to \$157,244.

(e) Other Costs

Unknown

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

No funding has been provided to community schools to meet the requirements of the rule. Community schools, per statute, bear the costs of the requirements.

7. Please provide a statement on the proposed rule's impact on economic development.

A school that meets expected gains and remains open will continue to provide employment to a number of individuals and have an impact on the community.