

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

Agency Name

Division

Chris Castle

Contact

25 S. Front Street Columbus OH 43215-4183

Agency Mailing Address (Plus Zip)

614-466-4705

Phone

Fax

Christopher.Castle@ode.state.oh.us

Email

3301-102-08

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Standards for measuring sponsor compliance with applicable laws and rules.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **Yes**Bill Number: **HB555**General Assembly: **129**Sponsor: **Stebelton**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, 3314.015**5. Statute(s) the rule, as filed, amplifies or implements: **3314.015**

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

Am. Sub. H.B. 555 requires the Ohio Department of Education to develop and implement an evaluation system that rates each entity that sponsors a community school based upon three components, but only requires the State Board to adopt rules for one component, the compliance with applicable laws and administrative rules.

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:

Pursuant to Am. Sub. H.B. 555, the Ohio Department of Education is required to develop and implement an evaluation system that rates each entity that sponsors a community school based upon three components including the academic performance of students enrolled in community schools sponsored by the same entity; adherence to quality sponsoring practices prescribed by the department; and compliance with applicable laws and administrative rules. The State Board is required to adopt rules for one of the three components, the sponsor's compliance with applicable state laws and rules governing all sponsors of community schools. The proposed rule applies to all sponsors of community schools. The sponsor compliance rating comes from a sponsor's compliance with monitoring a community school's adherence to statutory requirements covering the areas of health and safety, education program, finance, governance and school operations. It is one of three ratings that are used to comprise the sponsor evaluation system, as defined in section 3314.016 of the Revised Code, amended by Am. Sub. H.B. 555. The proposed rule includes elements taken from legislative requirements included in section 3314.03 of the Revised Code. Section 3314.016 of the Revised Code also specifies the rating labels to be used and the rule provides the standards for each label. Based upon the findings from the compliance review, each sponsor shall receive a rating of exemplary, effective or ineffective for the compliance part of the sponsor evaluation. Additionally, this rating will contribute to an overall rating of the sponsor as exemplary, effective or ineffective. The department's protocol for reviewing a sponsor's compliance with rules and laws will be posted on the department's website and shared with each sponsor prior to initiating the sponsor compliance review, which, as mentioned above, is part of the sponsor evaluation system.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) 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

This filing will not impact the agency's budget.

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

NA

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:

There is no cost of compliance with regard to this filing. Complying with the rule is the same as complying with the law. The law requires sponsors to monitor their schools. The rule is about the department of education's verification that the sponsor has done its due diligence in monitoring the community school's compliance with laws and its contract.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

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

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

The proposed rule applies to all sponsors of community schools. The potential adverse impact is that a sponsor rated ineffective for the compliance component will have an increased likelihood of receiving an ineffective overall rating. A sub-set of sponsors, those that are non-profit entities approved by the department to sponsor new start-up community schools, are considered businesses.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

**Ohio Department of
Education
Legal Division**

Memo

To: Paula J. Steele
Office of the Lt. Governor, Mary Taylor

From: Chris Castle
Administrative Rule Coordinator
(614) 387-0398

Date: January 7, 2015

Re: 3301-102-08

What follows is a list of changes made to proposed new Rule 3301-102-08 of the Administrative Code, and a brief history of what occurred subsequent to the department's filing of the rule with JCARR.

After filing the rule with JCARR (following CSI's approval) on April 8, 2013, a JCARR analyst noted a potential statutory conflict in that the rule was filed more than a year before a portion of the law regarding sponsor performance review would be in effect. As a result, we placed the rule in TBR status until the statute became effective.

Because JCARR prefers that agencies withdraw rules that have been in TBR status for more than a year, we decided to withdraw the rule and start over. The rule was further refined during this intervening period, but not in a way that adversely impacts the business community.

- Paragraph (A) – We are removing the term *annually* from the statement establishing that the department shall annually rate each entity that sponsors a community school;
- Paragraph (B)(3) – We clarified the process by which community schools would be selected for the department's on-site review;
- Paragraphs (D)(1) and (D)(2) – We weakened the standard that sponsors must meet to achieve in order to receive a rating of exemplary or effective;
- Paragraph (D)(3) - We made it more difficult for a sponsor to be rated as ineffective (i.e. easier to avoid an ineffective rating);
- Paragraph (D)(4) – We eliminated this paragraph since there are currently no emerging sponsors;
- Paragraphs (E) and (F) – We eliminated those paragraphs entirely as they duplicated statute; and

- Throughout the rule, we replaced *statutorily required items*, *statutory requirements*, and the like, with *rules and law*.

If you have any questions, please don't hesitate to contact me.