

**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

**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: **HB2**General Assembly: **131**Sponsor: **Rep. Mike Dovilla  
and Rep. Kristina Roegner**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, 3314.016**5. Statute(s) the rule, as filed, amplifies or implements: **3314.016**

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

Pursuant to Am. Sub. H.B. 2, 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:

# 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 all applicable laws and administrative rules in accordance with section 3314.016(B)(1) of the Revised Code.

The State Board is required to adopt rules for one of the three components, the sponsor's compliance with all applicable state laws and rules governing all sponsors of community schools. The proposed rule applies to all sponsors of 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:

As stated above, Am. Sub. H.B. 2 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 of Education to adopt rules for one component, the compliance of sponsors with all applicable laws and administrative rules. The proposed rule addresses this legislative charge by incorporating requirements of O.R.C. 3314. The sponsor compliance rating comes from a sponsor's compliance with all applicable laws and administrative rules, which includes its monitoring and oversight of the community schools it sponsors for their compliance with all applicable laws and rules, as required pursuant to O.R.C. 3314.016(B)(1)(c). It is one of three ratings for the sponsor evaluation system, as defined in O.R.C. 3314.016, as amended by Am. Sub. H.B. 2.

The proposed rule includes elements which have been developed, agreed upon and recommended by an advisory panel established by the former State Superintendent of Public Instruction that worked with ODE over the course of several months. Based upon the findings from the compliance review, each sponsor shall receive a rating of #full compliance,# #satisfactory compliance,# #partial compliance,# #needs significant improvement,# or #non-compliance.# Additionally, this rating will be equally weighted with the other two components for the overall rating of the sponsor as #exemplary,# #effective,# #ineffective,# or #poor.#

The department's protocol for reviewing a sponsor's compliance with all applicable laws and rules 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. In fact, the department has already held multiple webinars for sponsors on the sponsor evaluation system, including a webinar on the compliance component. Extensive stakeholder comment opportunities were provided and a number of suggestions were incorporated into the revisions.

The rule also provides for the sponsor to submit a compliance plan so that the

department can work with the sponsor on the timing of the evaluation process. Sponsors need actually certify compliance with all laws and rules by June 30th of each year.

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:

As stated above, Am. Sub. HB 2 requires the department to evaluate a sponsor's compliance with all applicable rules and law. In an effort to support sponsors and other stakeholders, the department developed a list of all applicable laws and rules, which has been sent to all sponsors and is currently posted on the department's website. The list further highlights the health and safety compliance items, which receive a greater weighting than the other compliance items. This list is updated annually to reflect changes in laws and rules applicable to sponsors and community schools. This list is used by the department to evaluate the extent to which a sponsor demonstrated compliance with all applicable laws and rules as part of the compliance component of the sponsor evaluation system.

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:

Not applicable

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:

1) Changes to RSFAs

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 increase expenditures.

\$143,072.03

The proposed rule will increase the expenditures of ODE by \$143,072.03

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

The appropriation is GRF 200455 - Community Schools and Choice Programs.

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:

ODE surveyed sponsors to determine any additional costs associated with reporting and documenting compliance with a sponsor's obligations under all applicable laws and rules.

Of the seven (7) non-profit corporation sponsors, all responded that their operating costs would increase. One sponsor, which currently oversees a portfolio of forty-eight (48) community schools, said that it would need to hire additional staff. However, the sponsor did not provide any information regarding estimated costs associated with hiring those staff. Other sponsors, which currently oversee portfolios of six (6) to forty-nine (49) community schools estimated the cost to implement the requirements in the proposed administrative rule as ranging from \$30,000 to \$285,857 in the first year. For this subset, the estimated average cost per sponsored community school was \$5,990, with a range of \$3,409 to \$11,033 per sponsored community school.

Only six (6) of the fifty-eight (58) governmental entities currently sponsoring community schools responded. One sponsor, which currently oversees a portfolio of eight (8) community schools, stated it was unsure about any cost impact. Two sponsors, overseeing a portfolio of one community school each, said that there would be no increase in operating costs associated with the proposed administrative rule; a third sponsor said there would be an increased operating cost, but provided no specific estimates regarding those costs. Two other public sponsors, which currently oversee portfolios of three (3) community schools each, estimated an increase of operating costs of \$2,500 and \$6,800, respectively.

However, it is important to note that any estimated cost increases would be incremental and that the law requires ODE to evaluate sponsors on their compliance with all laws. The overall rating may have an impact on a sponsor's ability to sponsor additional schools, as required by O.R.C. 3314.016. Ohio law already required sponsors of community schools to monitor a community's compliance with all laws applicable to the school. Further, sponsors were already required to respond in a timely manner to reasonable requests from the department for information, data, and documents # including documentation to support its monitoring of a community school's compliance with laws. During the 2014-2015 compliance review, sponsors provided documentation supporting compliance monitoring for up to forty-four (44) different laws and administrative rules. Although the amount of documentation requested for the compliance review will increase under the proposed regulation, ODE is providing the list of compliance items so that sponsors can begin collecting and reviewing this documentation in order to fulfill their long-standing obligations under Ohio law.

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**

### **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**

No

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**

No. However, as stated above, sponsors may be sanctioned as a result of receiving an overall rating of #ineffective# or #poor# on the sponsor evaluation. These sanctions are described by Ohio law and were not created as part of the proposed rule.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Yes. As described above, although the proposed rule does not require specific expenditures, sponsors are required to report information regarding compliance with applicable law and rules as well as monitoring and oversight of the compliance with applicable laws and rules of community schools that it sponsors.

**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
<b>Yes</b>	<b>No</b>	<b>No</b>	<b>No</b>

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.

ODE surveyed all school districts that sponsor community schools to determine whether there were any additional costs associated with compliance with the rule. Only six (6) of the fifty-eight (58) school districts currently sponsoring community schools responded. One sponsor, which currently oversees a portfolio of eight (8) community schools, stated it was unsure about any cost impact. Two sponsors, overseeing a portfolio of one community school each, said that there would be no increase in operating costs associated with the proposed administrative rule; a third sponsor said there would be an increased operating cost, but provided no specific estimates regarding those costs. Two other public sponsors, which currently oversee portfolios of three (3) community schools each, estimated an increase of operating costs of \$2,500 and \$6,800, respectively.

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.

The financial impact of the proposed rule will vary based on the size of each sponsor and the extent such sponsors utilize technology to reduce costs. First, there are generally two types of costs associated with the proposed rule: implementation costs and ongoing costs.

Implementation costs include hiring or contracting additional staff to align the current systems sponsors maintain with the requirements of the proposed rule. Depending on the portfolio and technological sophistication of the sponsor, these costs can vary greatly.

Ongoing costs include any additional staff or system that may be required in order to ensure compliance with the proposed rule once implementation is complete. ODE anticipates these costs to be minimal because most documentation sponsors collect and review can be done electronically and is unlikely to change from year to year. Further, sponsors are already required to conduct at least two site-visits each year during which additional document collection or review can occur.

It also important to note that to minimize additional costs, ODE researched and published a list of all laws and administrative rules with which sponsors must comply and ensure sponsored community schools comply. ODE updates and publishes this list each year to reflect any changes in law or rule applicable to sponsors or community schools.

ODE has prepared three separate cost estimates based on how the rule is likely to impact different types of sponsors. Any changes to the cost estimate for future years, i.e. ongoing costs, have been described in italics following each category.

1. Large Sponsor (more than thirty community schools, statewide sponsorship, use of technology)

Medium Sponsor (more than ten community schools, regional sponsorship, limited use of technology)

Small Sponsor (one to three community schools, single school district or county, limited use of technology)

#### (a) Personnel Costs

##### 1. Large Sponsor

(a) Personnel Costs # \$100,000 (includes salary, training and benefits for one employee), \$100,000 (cost of contractors to provide one time assistance with implementation).



ODE anticipates the cost for contractors to assist in implement will not be required in future years.

2. Medium Sponsor

(a) Personnel Costs # \$50,000 (cost of contractors to provide one time assistance with implementation).

ODE anticipates the cost for contractors to assist in implementation will not be required in future years.

3. Small Sponsor

(a) Personnel Costs # \$50,000 (cost of contractors to provide one time assistance with implementation).

ODE anticipates the cost for contractors to assist in implementation will not be required in future years.

(b) New Equipment or Other Capital Costs

1. Large Sponsor: New Equipment or Other Capital Costs # None.

2. Medium Sponsor: New Equipment or Other Capital Costs # \$15,000/year (document/compliance management system).

3. Small Sponsor: New Equipment or Other Capital Costs # None.

(c) Operating Costs

1. Large Sponsor: \$4,000 (annual travel, meals, lodging, per diem). ODE anticipates a reduction of operating costs to \$2,000 as a result of document review and collection being integrated into regular site-visits.

2. Medium Sponsor: \$1,000 (annual travel, meals, lodging, per diem).

ODE anticipates no additional operating costs will be required in the future as a result of document review and collection being integrated into regular site-visits.

3. Small Sponsor # None.

(d) Any Indirect Central Service Costs

1. Large Sponsor: None

2. Medium Sponsor: None

3. Small Sponsor: None

(e) Other Costs

1. Large Sponsor: None

2. Medium Sponsor: None

3. Small Sponsor: None

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.

The Ohio Department of Education already receives an appropriation for providing oversight and evaluating sponsors and community schools (GRF 200455 - Community Schools and Choice Programs). There is sufficient funding in the appropriation for ODE to fulfill its obligations under the proposed rule.

As stated above, by law and contract, school districts that sponsor community schools already receive up to three per cent of the community school's funding to provide oversight, monitoring and technical assistance. The proposed rule does not require any additional oversight, monitoring or technical assistance beyond what is already required by law and rule. School districts should utilize this source of funding to pay for the requirements imposed by the proposed rule.

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

The Ohio Department of Education does not anticipate an impact on economic development as a result of adoption of the proposed rule.