

TO BE RESCINDED

3301-39-03 **Procedures.**

(A) Nonpublic schools seeking an approval to operate or a charter

- (1) A nonpublic school shall request from the department the procedures necessary for obtaining either an approval to operate or a charter.
- (2) The department shall provide to the nonpublic school instructions on how to access from the internet Chapters 3301-35 (operating standards for Ohio's districts and schools) and 3301-39 of the Administrative Code (codes.ohio.gov) and all necessary forms required to demonstrate compliance with such rules.

If a nonpublic school is unable to access the internet for the purpose of obtaining the rules and forms, the department shall provide physical copies of such material to the nonpublic school.

- (3) To obtain approval to operate from the department, the nonpublic school shall sign and return to the department an affidavit of intent not to discriminate on the basis of race, color, national and ethnic origin along with assurances that the nonpublic school is not a sentencing alternative for the court or subject to administrative agency ordered or public school district initiated desegregation.
- (4) The governing board of the nonpublic school shall adopt and implement policies of nondiscrimination on the basis of race, color, national and ethnic origin. Copies of such policies shall be submitted for approval to the department on official school letterhead.
- (5) Upon receipt of the affidavit of intent not to discriminate as required in paragraph (A)(3) of this rule and proof of adoption of racially nondiscriminatory policies as required in paragraph (A)(4) of this rule, the department shall provide guidance for the purpose of assuring that the nonpublic school develops and implements educational policies and practices consistent with the operating standards for Ohio's districts and schools.
- (6) Upon determination by the department that a school seeking an approval to operate has fulfilled the requirements of paragraphs (A)(3) and (A)(4) of this rule, has submitted satisfactory evidence of compliance or intent to comply with the operating standards for Ohio's districts and schools, and upon satisfactory completion of a site-visit, the department shall grant to the nonpublic school an approval to operate. In determining compliance or intent

to comply with the operating standards for Ohio's districts and schools, the department shall consider evidence provided by an accrediting association if the school is accredited by an association whose standards have been reviewed by the state superintendent's advisory committee on chartered nonpublic schools and approved by the state board of education pursuant to paragraph (A)(1) of 3301-35-12 of the Administrative Code.

- (7) Approval to operate shall be effective for a maximum of three school years.
- (8) During the time period that a school is educating students under an approval to operate, the nonpublic school shall solicit through advertisement complaints regarding potential violations of the operating standards for Ohio's districts and schools or policies of nondiscrimination. Advertising shall meet the following standards:
 - (a) Newspapers - placed once a week for a four-week period in a minimum of two newspaper outlets of general circulation in those school districts from which pupils are enrolled or sought to be enrolled. (Any other print media circulated free of charge within a community or municipality shall not qualify.)
 - (b) Other media - The nonpublic school shall seek approval from the department of its intent to advertise by way of other media such as television, magazine, internet, etc. The department shall make its determination based on whether the plan to use other media can potentially reach the same numbers within those school districts as newspapers.
 - (c) Proof of publication or broadcast of such advertisement shall be submitted to the department as required.
- (9) Upon receipt of a complaint in response to the advertisement required under paragraph (A)(8) of this rule, the department shall determine if the facts warrant investigation and conduct an investigation accordingly. If the department determines that the nonpublic school's policies or practices have violated the Operating standards for Ohio's districts and schools or are otherwise discriminatory as defined by this chapter, the department shall notify the nonpublic school of its intent to recommend to the state board of education that its approval to operate be rescinded and of the nonpublic school's right to a hearing pursuant to Chapter 119. of the Revised Code.
- (10) During each school year that a school is educating students under an approval to operate, the duly authorized representative of the nonpublic school shall

complete and submit to the department by the deadline to be established by the department the form entitled "Report of Nonpublic School" (available through education.ohio.gov).

- (11) Upon satisfactory completion of the requirements in paragraphs (A)(1) to (A)(10) of this rule and within three school years from obtaining its approval to operate, the nonpublic school may request approval of its charter.

Prior to granting the charter, however, the department shall

- (a) Conduct a site-visit for the purpose of determining that the nonpublic school has adopted, advertised, and implemented nondiscriminatory policies; and
 - (b) Determine that the nonpublic school has complied with the operating standards for Ohio's districts and schools. The department shall consider evidence provided by an accrediting association if the school is accredited by an association whose standards have been reviewed by the state superintendent's advisory committee on chartered nonpublic schools and approved by the state board of education pursuant to paragraph (A)(1) of 3301-35-12 of the Administrative Code.
 - (c) If the department determines that the school has satisfactorily completed all requirements prescribed in this rule, the school shall be issued a charter to operate as a chartered nonpublic school.
- (12) If, however, following the completion of three school-years subsequent to the receipt of an approval to operate, the department determines that a nonpublic school has failed to satisfy the requirements necessary to obtain a charter pursuant to the rules in this chapter, the nonpublic school shall be notified in writing of the expiration of its approval to operate. Upon expiration of its approval to operate, a nonpublic school shall not be prevented from initiating another chartering process.

(B) Chartered schools

- (1) The governing board of a nonpublic school shall adopt and implement policies of nondiscrimination on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, employment, scholarship and loan programs, and athletic and other school-administered programs. Copies of such policies shall be submitted for approval to the department.

- (2) The duly authorized representative of the nonpublic school shall complete and submit electronically to the department by the deadline established by the department the average daily membership report (ADM-1 available through education.ohio.gov) pursuant to section 3317.03 of the Revised Code and the rules in this chapter.
- (3) The department shall conduct periodic reviews through site-visit, desk audit, or other means to determine if the nonpublic school complies with the operating standards for Ohio's districts and schools. The department shall consider evidence provided by an accrediting association if the school is accredited by an association whose standards have been reviewed by the state superintendent's advisory committee on chartered nonpublic schools and approved by the state board of education pursuant to paragraph (A)(1) of 3301-35-12 of the Administrative Code.
- (4) If a determination is made that the nonpublic school is not in compliance with paragraphs (B)(1) to (B)(3) of this rule, does not fully address all compliance issues within ninety days of notification by the department, the nonpublic school shall be notified of the department's intent to recommend to the state board of education that its charter be revoked, and of the nonpublic school's right to a hearing pursuant to Chapter 119. of the Revised Code.
- (5) Upon receipt of a complaint about a nonpublic school, the department shall determine if the facts warrant investigation and investigate accordingly. If the department determines that the nonpublic school's policies or practices have violated the operating standards for Ohio's districts and schools or are otherwise discriminatory as defined in this chapter. If the nonpublic school does not fully address all compliance issues within ninety days of notification by the department, the department shall notify the nonpublic school of its intent to recommend to the state board of education that its charter be revoked, and of the nonpublic school's right to a hearing pursuant to Chapter 119. of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 02/08/2017

Certification

Date

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