

**MEMORANDUM**

**TO:** Diane Lease, Ohio Department Education

**FROM:** Emily Kaylor, Regulatory Policy Advocate

**DATE:** June 3, 2016

**RE:** **CSI Review – Sponsor Compliance (OAC 3301-102-08)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

This rule package consists of one amended<sup>1</sup> rule submitted by the Ohio Department Education (Department) pertaining to community school sponsor compliance. It was submitted to the CSI Office on March 16, 2016 and the comment period closed on March 31, 2016. Two comments were received.

Sponsors have previously been required to comply with applicable laws and rules, but recently-enacted House Bill 2 explicitly requires compliance with all laws and rules through better documentation and accountability. This rule establishes the new standards for measuring sponsor compliance by requiring validation of compliance items either through electronic documentation or during their onsite review. There are currently 65 entities that sponsor community schools in Ohio and will be impacted by this rule, and seven of these entities are non-profit corporations that oversee approximately half of the community schools operating in Ohio.

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<sup>1</sup> OAC 3301-102-08 is being amended to the extent that the Legislative Service Commission requires the Department to rescind the rule and replace it with a new rule of the same number.

For stakeholder outreach, the former Superintendent of Public Instruction established an independent advisory panel to provide guidance on the sponsor compliance evaluation system. This rule and the list of compliance items were formed with their guidance and approval in addition to the State Board of Education. Community schools, their sponsors, and the public were also given a chance to comment on the rules posted to the Department's website and at the December State Board meeting. There were 193 comments received through the online posting, most of which came from individual citizens and public school districts about process or with questions. Additionally, the Department reached out directly to sponsors to receive a better picture of the financial impact they expect and, of the seven non-profit corporation sponsors, they estimated an average cost of \$5,990 per sponsored community school.

Two comments were received during the CSI comment period from two sponsor organizations. These sponsors were concerned about the lack of communication and expediency in publishing a list of all the compliance requirements. The Department acknowledged a delay in compiling all the references from the Revised Code that would require compliance, but they provided the list to sponsors on May 13th. Additionally, sponsors were concerned about the administrative and cost burdens that would be incurred due to the additional compliance requirements and the uploading of documents to the reporting site. If a sponsor is rated as ineffective in its compliance, that will affect its ability to sponsor schools. These ratings can be appealed and the Department must have documented proof to support the rating it gave the sponsor, so the upload of documentation seems to be a necessary requirement. To alleviate some of the administrative burden, the Department created a certification form that each sponsor will submit for each school they oversee that covers the compliance with all laws and rules that do not require an individual document upload. The Department also sent a list of all the compliance items to each sponsor so that they know what documentation will be required for each item.

During a conference call with the Department, CSI, and Charter School Specialists (CSS), CSS also raised concerns about the use of Epicenter and the cost of uploading documents. The Department notes that there is no mandatory cost other than employee time to the sponsor for loading documents into Epicenter, but a sponsor may choose to acquire its own license to create a more streamlined process. CSS also requested that the compliance items that are directly related to health and safety be identified so that sponsors can ensure schools are complying with those items that, pursuant to the rule, would trigger an automatic one level reduction in the sponsor's compliance rating. In accordance with the draft rule 3301-102-08(F)(3), the Department has completed a version of the compliance list that highlights all health and safety requirements. This updated list will be provided to sponsors shortly.

After reviewing the proposed rule and the BIA, the CSI Office has determined that the purpose of the rule package is justified.

**Recommendation**

For the reasons explained above, the CSI office does not have any recommendations for this rule package.

**Conclusion**

Based on the above comments, the CSI Office concludes that the Ohio Department of Education should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office