

**MEMORANDUM**

**TO:** Sherry Worstell, Ohio Department Education

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

**DATE:** January 26, 2017

**RE:** **CSI Review – Approval of Nonpublic Schools (OAC 3301-39-01, 3301-39-02, 3301-39-03, and 3301-39-04)**

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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 four rules – two amended<sup>1</sup>, one new, and one rescinded – submitted by the Ohio Department Education pertaining to the approval of chartered nonpublic schools. It was submitted to the CSI Office on November 21, 2016 and the comment period closed on December 21, 2016. No comments were received during this time.

The rules provide definitions, application procedures, and revocation measures for a chartered nonpublic school. Chartered nonpublic schools are private schools that hold valid charters issued by the State Board of Education and maintain compliance with certain operating standards. Parents pay tuition to send their children to these schools, but the schools are eligible for administrative cost reimbursement, auxiliary services, and transportation services for students. According to the Department, there are 709 chartered nonpublic schools in Ohio.

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<sup>1</sup> OAC 3301-39-03 is 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.

In the definitions rule, “approval to operate” has been changed to “conditional charter” to better align with the terminology for private schools and be clear about what that status means. The newly established timeline of submitting an application to the Department between December 31 and January 15 ensures that conditional charters will be approved or disapproved prior to the start of a school year. One rule is rescinded because it was a repetition of other sections of code. The new rule explains that the Department may revoke a charter if the nonpublic school is found out of compliance with laws or rules and does not follow through on an approved corrective action plan. It also states that each school has a right to a hearing before a final decision.

The costs associated with these rules include the application for a charter and those required as a condition of charter. This includes costs of compliance and operation such as building maintenance, proper permits, health and safety requirements, credentialed staff, etc. As stated in the BIA, these costs are typically charged to the parents of enrolled students as annual tuition. As chartered, these schools are eligible to receive some reimbursement costs from the state to assist in their compliance and operations. No feedback was received from stakeholders and no comments were received during the CSI comment period.

After reviewing the proposed rules 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.