

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: The Ohio Department of Education

Regulation/Package Title: Approval of Nonpublic Schools

Rule Number(s): 3301-39-01, 3301-39-02, 3301-39-03, 3301-39-04

Date: October 6, 2016

**Rule Type:**

☐ New

☐ Amended

☐ **5-Year Review**

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

**1. Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

These administrative rules are scheduled for review and revision under five-year rule review process. Generally, the rule changes seek to do a number of things:

- Eliminate portions of a rule already stated in state law;
- Change the term Approval to Operate to Conditional Charter; and

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- Set a timeline to ensure conditional charters are approved or disapproved prior to the start of a school year.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

3301.07(D)(2) and (M)

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? NO**

*If yes, please briefly explain the source and substance of the federal requirement.*

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The State Board of Education was required to adopt administrative rules governing the Approval of NonPublic Schools to comply with state law. Schools which are in compliance with the Operating Standards for Ohio Schools and complete the Approval of Nonpublic Schools receive a charter to operate from the State Board of Education.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Accrediting Associations work with the Department to issue a charter to a nonpublic school that has met the accrediting associations standards which have been aligned with operating standards for Ohio's schools. The accrediting association leaders meet quarterly with the Department to discuss and address challenges of this regulation.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The Ohio Department of Education held a stakeholder meeting to discuss the rules and posted the rules for stakeholder feedback. Stakeholders included leaders of accrediting associations who work in conjunction with the agency to issue a charter to a nonpublic school meeting aligned standards.

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- 8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

No stakeholder feedback was received.

- 9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

No scientific data was required to develop the rule or the measurable outcomes of the rule.

- 10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No stakeholder feedback was received and the department of education determines no changes to the rules were necessary.

- 11. Did the Agency specifically consider a performance-based regulation? Please explain.**  
*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

Parents pay tuition for their child to attend a nonpublic school chartered by the State Board of Education. The parent determines if the school has met the needs of their child.

- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? The agency reviewed regulations within the agency relating to non-public school charters.**

- 13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community. The application to operate a nonpublic school will be electronic and each entity will submit application materials that show compliance with the requirements of the regulation.**

### **Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact. It is not possible to calculate the estimated cost of compliance with the rule for prospective schools seeking to become chartered to operate by the State Board of Education. However, the school must operate in a building that has an occupancy permit, has not health or safety violations and staff that have credentials. These costs are typically charged to the parent of enrolled students as annual tuition.*

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** To receive a charter, an entity must show compliance with operating standards for schools. Once chartered, the nonpublic school is able to receive administrative cost reimbursement funds annually to assist with compliance pursuant to OAC chapter 3301-40.

### **Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? No. Please explain.**

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation? We don’t have a waiver of fines for paperwork violations unless it would be withholding Administrative Cost reimbursement funds.**

**18. What resources are available to assist small businesses with compliance of the regulation? Guidance documents are posted and technical assistance is provided by ODE staff.**