



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Opportunities for Ohioans with Disabilities(OOD)

Rule Contact Name and Contact Information: Matt Lampke, 614-438-1217

Regulation/Package Title (a general description of the rules' substantive content):

Vocational Rehabilitation Program Services

Rule Number(s): 3304-2-52 and 3304-2-52 Appendix

Date of Submission for CSI Review: 6/7/21

Public Comment Period End Date 6/18/21

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/\_X\_ rules (FYR? Yes)

Rescinded/\_\_\_ rules (FYR? \_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ Requires an accreditation or certification and registration to be a vocational rehabilitation provider for OOD.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

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

Amendment to 3304-2-52 Appendix to add the service: Setup for Technology Access Readiness Training (START UP)

Individuals with disabilities have an increased need for assistance to support remote access to technology. OOD wants to ensure that individuals being served receive the assistance they need in the unboxing, setup, and familiarization with technology to access remote services. OOD can purchase iPads, data plans, and other technology for participants, but some individuals require services after receiving the hardware.

Providers will work with participants to familiarize themselves with their available technology to be able to:

- Power on and off equipment and sign in (e.g. iPad, laptop, etc.)
- Any required setup components such as AppleID, and obtaining an email
- Access and utilize all essential elements of identified program e.g. TEAMS, Zoom, Google Classroom, etc.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

- Appropriate etiquette (appropriate engagement, camera on, language, etc.)
- Use of mute/unmute and appropriate participation
- Connection to wi-fi or internet
- Environmental awareness (consideration of background on camera, use of pre-set backgrounds, etc.)
- Basic computer/internet security (do not share SSN online, do not share passwords, etc.)

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Section 3304.15 and 3304.41 of the Ohio Revised Code.

**4. 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?**

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

Yes, 34 CFR 361.50 requires OOD to adopt written policies covering the nature and scope of each vocational rehabilitation service and the criteria each service is provided.

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

This regulation does support the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 32 and resulting regulations. A vocational rehabilitation fee schedule is required by Section 3304.15(D) of the Ohio Revised Code.

**6. 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)?**

3304-2-52 These rules safeguard individuals with a disability to obtain services from qualified providers. OOD is proposing an additional service providers may deliver to support individuals with disabilities in a remote environment.

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

The WIOA establishes common performance measures for the Vocational Rehabilitation program. The success of this regulation will be evaluated by the extent to which the services support OOD in meeting these performance measures – number of individuals served - as well as other program performance metrics established by our federal oversight agency, the Rehabilitation Services Administration.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

**9. 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.*

OOD is providing increased remote delivery of vocational rehabilitation services and identified an increased need for remote assistance. OOD solicited input on remote assistance from the provider community. Over 100 providers recommended this service and are interested in providing this service for individuals needing support in a remote environment.

After formulating the new service to fit the need that has been expressed by providers, participants, and field staff, OOD had discussions with the three major provider representative organizations. OOD met with Ohio Association of Goodwill Industries (OAGI) on April 26, 2021 and Ohio Provider Resources Association (OPRA) and the Ohio Council on April 30, 2021 via Microsoft TEAMS meetings to discuss the development of this remote service.

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

OOD received feedback from the provider community via the Remote Services Survey that there was a service gap that could be filled by this START UP service. Allen Berkenfeld of New Avenues to Independence suggested that OOD support a service to assist with a technological needs assessment including access to technology, access to wi-fi or mobile data, and the ability to use technology independently. Kitty Kromer of Columbiana County Educational Service Center likewise suggested a service to allow providers to set up technology and basic training for the participants to ensure the participants can use the technology prior to engaging in services.

When OOD met with OAGI, OPRA, and the Ohio Council in April to discuss the proposed service, they were all in agreement that there is an urgent need for this service and it would greatly benefit participants. They encouraged OOD to implement this service immediately and particularly for summer youth participants starting in June.

**11. 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?**

OOD has received input from the provider community, its counselors, and participants that this service would assist individuals with disabilities in Ohio.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

**12. 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?**

OOD reviewed currently approved services and found that none of the current services met this need. This is a new service to fill a gap in the services provided to individuals with disabilities.

**13. 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.***

OOD created this service based on units of service in line with the majority of its fee schedule services. This allows the individualization of services and allows providers to be compensated for individuals who might need more time and attention in these services.

**14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

These regulations are specific to OOD and promulgated under Ohio Revised Code Section 3304.41.

**15. 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.**

Providers are evaluated annually to assure compliance with the program and adherence to program standards.

**Adverse Impact to Business**

**16. 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; and**

This rule provides for reimbursement to providers who are capable of performing this service.

**b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**

Minimal paperwork time to document providing the service that is needed for audit purposes. Providers approved for this service will already be approved to offer core services or Rehabilitation Technology (credentialed) and the service will typically be authorized in conjunction with a service that is being delivered remotely.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

**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.*

Minimum amount of time to provide the necessary paperwork to document providing this service to obtain reimbursement.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The provider community has requested this change to provide needed remote assistance to individuals with a disability.

**Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No, only qualified providers may provide Setup for Technology Access Readiness Training.

**19. 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?**

OOD does not impose fines or penalties for paperwork violations.

**20. What resources are available to assist small businesses with compliance of the regulation?**

Providers are offered training and resources to serve individuals with a disability.