



Common Sense Initiative

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

Joseph Baker, *Director*

MEMORANDUM

TO: Brittney Kneisel, Ohio Department of Education and Workforce

FROM: Caleb White, Business Advocate

DATE: November 1, 2023

RE: **CSI Review – Standards for Kindergarten through Twelfth Grade (OAC 3301-35-04)**

On behalf of Lt. Governor Jon Husted, 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 Department of Education and Workforce (Department) as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule proposed by the Department as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on September 21, 2023, and the public comment period was held open through September 28, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 21, 2023.

Ohio Administrative Code (OAC) 3301-35-04 was initially reviewed by the CSI Office as a part of another package in February of 2021. The CSI Office made a recommendation at this time for the Department to reinstate an eliminated provision of this rule which requires schools to offer courses in the areas of foreign language, technology, family and consumer science, and business education. In their Memorandum of Response to the CSI Office, the Department indicated they would delay the filing of OAC 3301-35-04 to further review the rule. However, at the behest of the Ohio State Board of Education, the Department proceeded in filing the proposed rule with the Joint Committee

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on Agency Rule Review without the change recommended by the CSI Office. This rule was subsequently invalidated by the General Assembly through House Concurrent Resolution 35 of the 134th General Assembly. The General Assembly determined the amendments in OAC 3301-35-04 conflict with the legislative intent of the statute and conflict with another rule. It was also determined that the adverse impact to businesses created by the amendments were insufficiently justified, and the rule analysis as well as fiscal summary were inadequate.

OAC 3301-35-04 establishes the policies and procedures that should be adopted by both school districts and chartered non-public schools to ensure student and stakeholder needs are addressed. This rule is amended to clarify, update, and streamline language, as well as to implement a provision previously included in OAC 3301-35-02. This rule has also been amended from the version previously submitted for CSI review in 2021 to restore the requirement for schools to offer courses in the areas of personal safety and assault prevention in grades kindergarten through six, foreign language, technology, family and consumer services, and business education.

During early stakeholder outreach, the Department initially met with stakeholder groups in August of 2019. After the rule was invalidated by the General Assembly, the Department conducted a second early stakeholder outreach period and engaged with the Nonpublic Superintendents Advisory Committee and Ohio Excels. Prior to the rule's initial adoption, one stakeholder advocated for the removal of the requirement for schools to offer courses in the areas of foreign language, technology, family and consumer services, and business education. The Ohio State Board of Education revisited this rule in 2023 and determined to submit a rule that is largely consistent with the rule previously submitted to the CSI office in but reinstated the requirement for schools to offer courses in the areas of foreign language, technology, family and consumer services, and business education. During the CSI public comment period, the Department received one comment in support of the proposed rule.

The business community impacted by the rule includes all chartered non-public schools in Ohio. The adverse impact created by the rule includes supply, resource, and personnel related costs. The Department notes that most of the provisions in this rule are already in effect and thus the Department does not anticipate a substantial increase in the financial impact for these schools. The Department states that the adverse impacts to business are justified as the Department has a statutory requirement to establish minimum standards for schools.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review.