



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

Joseph Baker, Director

## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Education and Workforce, Office of Accountability

Rule Contact Name and Contact Information: Brittney Kneisel,  
Brittney.Kneisel@education.ohio.gov

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

Standards for measuring sponsor compliance with applicable laws and rules

Rule Number(s): 3301-102-08

Date of Submission for CSI Review: 2/14/2024

Public Comment Period End Date: 2/21/2024

Rule Type/Number of Rules:

New/\_\_\_ rules

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

Amended/ 1 rules (FYR? 1/21/2024 )

Rescinded/\_\_\_ rules (FYR?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

### **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 a license, permit, or any other prior authorization to engage in or operate a line of business.
- 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.*

OAC 3301-102-08 includes the standards and procedures used by the Department of Education and Workforce (Department) to evaluate each entity that sponsors a community school. This includes measuring sponsor compliance with all laws and rules, as well as monitoring the extent to which the sponsor has monitored its schools' compliance with all laws and rules.

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.

Authorizing statute: 3314.016

Amplifies: 3314.016

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.*

No.

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

N/A.

- 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)?**

The Department is required by Ohio law to adopt administrative rules governing standards for measuring sponsor compliance with all laws and rules.

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

The Department will measure the success of this regulation through improved sponsor ratings on the sponsor evaluation as well as an increase in the number of effective and exemplary sponsors.

- 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?**

*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.*

The Department published on its website the current rule for public comment from November 9, 2023, through December 10, 2023. On November 9, 2023, the Department issued a notice through the GovDelivery system to community school sponsors. The Department also issued a general press release that went to over 55,000 recipients. On November 9, 2023, the Department published a notice in the Department's EdConnection newsletter of the Director's intent to initiate rulemaking. The Department received comments from three individuals.

The Department published on its website the draft rule for public comment from January 5, 2024, through February 4, 2024. The Department also presented on the draft rule at the Department's January 18, 2024 public meeting. The Department received comments from one organization. The Department reached out to the individual who submitted the comments on behalf of the organization and addressed the comments.

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

The Department received four public comments regarding the current rule. Concern was raised regarding cost of implementation, though the vast majority of those costs are related to compliance with statute and not the draft regulation.

**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?**

N/A.

**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?**  
*Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

Pursuant to O.R.C. 3314.016, sponsors receive a performance-based evaluation that assesses the academic performance of a sponsor's portfolio of schools, its adherence to quality practices, and its compliance, monitoring, and oversight of applicable laws and rules. Sponsors are subject to incentives and/or sanctions based on the results of the evaluation. The Department incorporated relevant elements of this performance-based evaluation system into the proposed rules, such as the requirement for sponsors to comply with the terms of a quality improvement plan if the sponsor receives an overall rating of "ineffective" on its most recent evaluation, in order to ensure the proposed rules aligned to the performance-based evaluation system currently in place.

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

The Department ensured that this regulation was the only regulation that addresses the standards for measuring sponsor compliance with all laws and rules.

**14. 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 Department will continue to monitor and measure sponsor compliance with all laws and rules.

### **Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and**  
Nineteen entities sponsor community schools; six of them are non-profit organizations. The six non-profit organizations oversee 65.6% (221 of 337) of the community schools operating in Ohio.
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

***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.***

The majority of the impact to community school sponsors will be in the form of employer time for compliance. However, sponsors receive up to three (3) percent of the total amount of payments for operating expenses that each sponsored community school receives from the Department and may utilize these funds for the purposes described above. Further, sponsors regularly review and update community school contracts to account for changes in law or rule and any changes required by the amended rules could be incorporated into this process.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

N/A.

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

Any adverse impact associated with the proposed rule amendment is related to increased sponsor and community school accountability. Further, the rule is designed to provide community schools with greater clarity as to current obligations under rule and law and/or increase accountability in certain areas such as fiscal operations and academic performance.

### **Regulatory Flexibility**

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

No.

- 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?**

N/A.

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

The Department's website includes information for community school sponsors. Also, the Department's Office of Accountability can provide assistance to sponsors of community schools.