



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: State Board of Career Colleges and Schools

Rule Contact Name and Contact Information:

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

2020-2021 Rule Review Process

Rule Number(s): 3332-1-01, 3332-1-04.3, 3332-1-04.5, 3332-1-06, 3332-1-09

3332-1-10, 3332-1-11, 3332-1-12.1, 3332-1-14, 3332-1-18, 3332-1-19, 3332-1-20, 3332-1-21

3332-1-22, 3332-1-26

Date of Submission for CSI Review: 12-18-20

Public Comment Period End Date: 1-25-21

Rule Type/Number of Rules:

New/___ rules

No Change/_6_ rules (FYR? _Y_)

Amended/_9_ rules (FYR? _Y_)

Rescinded/___ rules (FYR?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.

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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.

3332-1-01 Authority for rule adoption

This rule addresses the Board's authority for adopting administrative rules. No changes are being proposed to this rule.

3332-1-04.3 Change of school ownership

This regulation addresses the process for a school change of ownership. Clarifications are being made to the change of ownership process including raising the threshold from owner identification form 5% ownership interest to 10% ownership interest and clarifying the time period for schools to submit notification of ownership changes. Key changes in the rule are listed below:

Board Notification:

(C) ~~When the decision to acquire ownership of a school has been made, the new owner should immediately inform the board by letter.~~ The board shall be formally

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notified no later than thirty days after the sale has taken place and the A-person or other entity purchasing a school which has a certificate of registration must acquire a new certificate, following established procedures and pay fees in accordance with the board's fee schedule.

3332-1-04.5 Suspension or revocation of certificate of registration

This rule addresses the reasons for suspending or revoking a certificate of registration. No changes are being proposed to this rule.

3332-1-06 Distance Education Programs

This regulation addresses the policies for approval of distance education programs. Language is being added to the rule to address distance education training for faculty. In addition new language is also being added to establish procedures for approving distance education programs during a pandemic or other emergency. Key changes in the rule are listed below:

Emergency approval procedures:

(F) In the event of a pandemic emergency or other emergency situation as determined by the board, the executive director may allow schools to temporarily transition onsite programs and courses to distance education delivery methods where appropriate and reasonable and where the school can adequately maintain its adherence to the program or course curriculum and achieve the necessary program learning objectives. Temporary distance education approval is subject to the following conditions:

- (1) Within thirty days after a school has begin offering courses or programs pursuit to being authorized to offer temporary distance education programs the school shall submit to the board a temporary distance education plan that explains the methods and proceesses the school shall use to offer temporary distance education and how those methods and processess meet the requirements of this rule.
- (2) Temporary approval for distance education delivery shall last for a time period as determined by the board but shall not last for more than one year. Schools seeking to continue offering distance education courses past the expiration of the temporary approval period shall submit for approval of the distance education courses through the normal approval process.
- (3) Schools that offer programs that are approved by accrediting agencies or other regulatory agencies shall also seek the approval of those agencies if required for distance education programs or courses.

3332-1-09 Student enrollment policies and practices

This regulation addresses policies and practices for student enrollment in a program. Several changes are being made to the rule to clarify the practice of revising enrollment agreements as well as the process for providing student's information about financial aid available at a school. Key changes in the rule are listed below:

Revising Enrollment Agreements:

(9) Date of publication and ~~revision~~ last date of review. All enrollment agreements shall be reviewed at least every two years and the date of last review or revision shall be noted on the enrollment agreement.

Financial Aid Notification:

(F) ~~It is the responsibility of all schools to develop an informational briefing on financial aid with special attention on the obligations of any student who applies for and accepts a financial aid grant or loan. A student who applies for financial aid through the school shall be required to attend a school's informational briefing on financial aid and sign a statement acknowledging an understanding of the financial obligations into which they are entering and a copy must be kept in the student's file.~~

3332-1-10 Tuition and Fees

This regulation addresses standards for collecting and refunding tuition and fees. Changes are being made to the rule to incorporate provisions for granting students military leaves of absence. In addition, language is being added to the rule to address school policies on the matriculation and graduation of students who owe tuition or fees and policies related to obtaining student records from closed schools. Key changes in the rule are listed below:

Military Leaves of Absence:

(12) Pursuant to Ohio Revised Code section 3332.20 institutions shall grant a student a military leave of absence from the institution while the student is serving on active duty, and for one year after the conclusion of that service, if the student is a member of the United States national guard or other reserve component of the armed forces of the United States, or a member of those armed forces in a retired status, and is called to active duty. The student shall not suffer an academic penalty as a result of the leave of absence. Tuition refunds for students on military leave of absence shall be calculated in accordance with Ohio Revised Code section 3332.20.

Matriculation and Graduation of students who owe tuition or fee balances:

(J) Schools may adopt policies related to the continuing matriculation or graduation of students who have unpaid tuition and fees or who are not in compliance with

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institutional payment plans. These policies shall be clearly stated in the school's catalog and may include restrictions such as not permitting students to start new academic terms, preventing students from graduating, and holding student transcripts. However, schools shall not prevent students from completing an academic term in progress or impose other academic restrictions during the course of an academic term.

Obtaining student records from closed schools:

(K) Schools that have closed and ceased operating shall not refuse to issue or release transcripts due to unpaid tuition or fees or impose any other financial restraint or condition on the release of student transcripts and other academic records. If the school transfers its academic records to another entity for storage or servicing, the entity in possession of the academic records shall not refuse to issue or release transcripts due to unpaid tuition or fees or impose any other financial restraint or condition on the release of student transcripts and other academic records other than normal and customary fees for processing records requests and issuing student transcripts.

3332-1-11 Scholarships and institutional grants

This rule addresses the approval process for institutional school scholarships and grants. No changes are being proposed to this rule.

3332-1-12.1 Recruitment and solicitation of students

This rule addresses the general requirements for who can recruit students and the locations where recruitment cannot take place. No changes are being proposed to this rule.

3332-1-14 Student surveys

This regulation addresses the process of surveying students. A few minor clarifications are being made to the rule.

3332-1-18 Complaint procedures

This regulation addresses the process of investigating complaints. A few minor clarifications are being made to the rule.

3332-1-19 Student tuition recovery fund

This rule addresses the student tuition recovery fund. No changes are being proposed to this rule.

3332-1-20 Penalties

This rule addresses the penalties for violating administrative rules or chapter 3332 of the Revised Code. No changes are being proposed to this rule.

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3332-1-21 Board meetings

This regulation addresses the procedures for notification about Board meetings. A few minor clarifications are being made to the rule including information about electronic notification about meeting information.

3332-1-22 Fees for certificate of registration and program authorization

This regulation addresses the fees charged for certificates of registration and program authorization. Fees for certificates of authorization are being increased between \$50-\$200 per year based upon the size of the school. Fees for program authorization are also being increased by \$50 per year. This is the first fee increase since 2003. Key changes in the rule are listed below:

Fees for certificates of registration:

(D) Fees for the issuance of a certificate of registration, including both new schools, changes of ownership, and school renewals, is based on the projected or actual gross tuition income of the school as follows:

Gross Tuition Income	New School/New Ownership Fee		Renewal (2-year fee)	
Less than \$100,000	\$150	\$200	\$300	\$400
\$100,000 to \$999,999	\$250	\$350	\$500	\$700
\$1,000,000 and over	\$800	\$1000	\$1600	\$2000

Fees for program authorization:

(F) Fees for the initial issuance and renewal of program authorization will be as follows:

Program Type	New and Renewal Program Authorization Fee
Certificate/Diploma	\$150 \$200 per year
Associate Degree	\$225 \$275 per year
Bachelor/Other Degree	\$450 per year
Major within Degree Program	\$150 per year

3332-1-26 Off-campus learning centers

This regulation defines off-campus learning centers and sets forth the requirements for approval. Clarifications are being made to the rule to address confusion about main campuses and off-site learning centers. In addition, the rule clarifies the approval process for learning centers. Key changes in the rule are listed below:

Learning Center Approval:

(G) The executive director may approve learning centers provided that the registered school has submitted the required application, facility compliance information, and

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any required fees. All learning centers approved by the executive director shall appear on the board's consent agenda at the next board meeting.

- 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.**

General rulemaking authority for the Board is located in Ohio Revised Code ("ORC") Section 3332.031. Other rule authority sections relevant to these rules includes ORC section 3332.05 (Certificates of Registration and Program Authorization), ORC Section 3332.051 (Student Surveys), ORC section 3332.07 (Fees), ORC Section 3332.083 (Student Tuition Recovery Fund), ORC Section 3332.09 (Suspension or Revocation of a Certificate of Registration), ORC Section 3332.091 (Complaints), and ORC Section 3332.20 (Military Leave of Absence).

- 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.

Not Applicable

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

Not Applicable

- 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 regulations are designed to establish the minimum standards for the registration and operation of private career colleges and schools. The proposed amendments are intended to assure that schools and school personnel operate in a manner consistent with the Board's rules and regulations.

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

Ultimately, success will be measured based upon the number of student complaints the Board receives and the number of violations of the Board's rules and regulations.

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?

Not Applicable

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

Development of the Regulation

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

Stakeholders were included in all phases of the development of the proposed rule amendments. Stakeholders included registered schools, education consultants, board members and board staff. The process began in the summer of 2020 with the drafting of proposed changes to the regulations and the establishment of a rule review committee. The rule review committee consisted of representatives of the State Board of Career Colleges and Schools' (SBCCS) staff as well as representatives from registered schools. The purpose of the rule review committee was to review the recommended changes and proposed any additional changes or revisions to the regulations. The rule review committee meeting was held on September 10, 2020 and the committee recommendations were initially discussed by SBCCS at its September 23, 2020 Board meeting and the proposed changes were posted on the Board's web site. After additional stakeholder feedback was received, additional changes to the rules were presented to SBCCS at its November 18, 2020 Board meeting and SBCCS voted to move forward with the formal filing of the rules with CSI and JCARR.

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

Stakeholder input was received during the rule review committee meetings and their suggestions were incorporated into the draft rules that were presented at the September 23, 2020 Board. After the draft rules were posted on the Board's web site, additional stakeholder feedback was received and that feedback was

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incorporated into the rules that were presented to the Board at its November 18, 2020 Board meeting.

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?

No scientific data was collected, however, the rules and regulations of other states and other state agencies were reviewed during the process.

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 regulatory language was considered and the final proposed language represented the consensus of the interested parties and stakeholders.

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.*

There were no proposed changes to the rules that would necessitate performance based standards.

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

The Board is not aware of any duplicate regulations and no concerns about duplication were raised by stakeholders during the review of the rules.

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.

The regulations will be implemented in a manner consistent with past implementation practices. Schools will be informed multiple times about new requirements and the Board will work proactively with schools to assure compliance with the requirements.

Adverse Impact to Business

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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**
- b. Identify the nature of all adverse impact (e.g., 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.

- a. The scope of the impacted business community would be the approximately 220 registered career colleges and schools under the Board’s jurisdiction.
- b. The nature of the adverse impact would be any increased costs associated with the new regulations including the proposed fee increases and the costs associated with reviewing the rule changes and updating policies and procedures to comply with the changes.
- c. Approximate yearly fee increases range from \$100 for smaller schools up to \$750 for larger schools. Since most of the other rule changes are policy related issues the changes will require some modifications to school policies and procedures and the time to review and comply is estimated to be a few days.

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

Since the Board is anticipating its revenue will be less than its expenses, the Board is proposing to raise some fees for the first time since 2003. These fee increases will not be used to increase the Board’s budget appropriation as the Board has requested a budget reduction (the 2nd reduction in the last 4 years). Most of the changes to required policies and procedures involved clarifications of already existing policies so any adverse impact in complying with these changes is likely offset by the regulatory intent to make the rules clearer for the business community.

Regulatory Flexibility

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

The Board will work with the Ohio-Michigan Association of Career Colleges and Schools to provide information and resources to schools about cost-effective ways for schools to achieve compliance.

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?

The Board is committed to working with schools in a productive manner to assure that the requirements are met in a timely manner. The Board has always worked with schools to assist them in coming into compliance with regulatory requirements and does not needlessly fine or penalize schools for paperwork violations.

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

The Board staff and field consultants are available to assist schools with questions about the regulations. In addition, the Board will work with the Ohio-Michigan Association of Career Colleges and Schools to provide information and resources to schools about cost-effective ways for schools to achieve compliance.