



Common Sense Initiative

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Business Impact Analysis

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

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

2023 Rule Review

Rule Number(s): 3332-1-02 Definition of Terms; 3332-1-03 Exempt Universities, Courses, Schools or Colleges; 3332-1-04.1 Change of Address; 3332-1-04.2 Name of School; 3332-1-04.4 Renewal of Certificate of Registration; 3332-1-04.5 Suspension or Revocation of a Certificate of Registration; 3332-1-05 Out-of-State Schools; 3332-1-07; 3332-1-09 Student Enrollment Policies and Practices; Equipment and Facilities; 3332-1-10.1 Refunds for Books and Supplies; 3332-1-13 Surety Bonds; 3332-1-15 Program Authorization; 3332-1-22 Fees for Certificate of Registration and Program Authorization; 3332-1-23 Annual Report; 3332-1-24 Graduation and Placement; 3332-1-27 Personal Information Systems Definitions; 3332-1-28 Procedures for Accessing Confidential Personal Information; 3332-1-29 Valid Reasons for Accessing Confidential Personal information; 3332-1-30 Confidentiality Statutes, Regulations and Rules; 3332-1-31 Restricting and Logging Access to Confidential Personal Information

Date of Submission for CSI Review: 12-14-23

Public Comment Period End Date: 1-16-24

Rule Type/Number of Rules:

New/ rules

No Change/ 14 rules (FYR? Y)

Amended/ 6 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Rescinded/ rules (FYR?)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

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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.

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.

3332-1-02 Definition of Terms

This rule provides definitions for this section of administrative code. Several changes are proposed to clarify the definitions of the terms "Certificate Program", "Diploma Program", and "College".

Key changes in the rule of listed below:

~~(G) "Certificate" means the credential awarded by a school upon the successful completion of a certificate program. The certificate program generally consists of one or more technical courses usually completed in one to twenty-six weeks, normally with a single skill objective and a maximum of thirty-six quarter or twenty-four semester credit hours.~~

(G) "Certificate program" means generally one or more technical courses usually completed in one to twenty-six weeks, with a single skill objective and generally consisting of at least twenty and no more than six hundred clock hours or thirty-six quarter credit hours or twenty-four semester credit hours. In special cases, non-technical may be included when it is demonstrated such courses are essential to the program and occupational outcomes.

(J) "College" means a school possessing a certificate of registration authorizing at least one associate or advanced degree program. **No Ohio school may use the term "college" in their school name unless the school has been approved to offer degree level programs.**

~~(N) "Diploma" means the credential awarded by a school upon the successful completion of a diploma program. The diploma program generally consists of more than six hundred but less than fifteen hundred clock hours; or more than thirty-six but less than ninety quarter credit hours; or more than twenty-seven but less than sixty semester hours.~~

(2) "Diploma program" means a program of instruction offering technical and non-technical coursework. The program shall generally range in length from more than six hundred but less than fifteen hundred clock hours; or more than thirty-six but less than ninety quarter credit hours; or more than twenty-four but less than sixty semester hours.

3332-1-03 Exempt Universities, Courses, Schools or Colleges

This rule addresses exemptions to the regulations. No changes are being proposed to this rule.

3332-1-04.1 Change of Address

This rule addresses the process and requirements for school's changing addresses. No changes are being proposed to this rule.

3332-1-04.2 Name of School

This rule addresses the general requirements for school names. No changes are being proposed to this rule.

3332-1-04.4 Renewal of Certificate of Registration

This rule addresses the process for renewing a certificate of registration. No changes are being proposed to this rule.

3332-1-04.5 Suspension or Revocation of a Certificate of Registration

This rule addresses the acts or omissions that may lead to the suspension or revocation of a certificate of registration. A minor change is being made to the rule to clarify that false or deceptive statements made on “social media” may lead to disciplinary action. Key changes in the rule of listed below:

(F) Presenting to prospective students, either at the time of solicitation or enrollment, or through advertising, **social media**, mail circulars, or telephone solicitation, misleading, deceptive, false, or fraudulent information relating to any program, employment opportunity, or opportunities for enrollment in accredited institutions of higher education after entering or completing programs offered by the holder of a certificate of registration;

3332-1-05 Out-of-State Schools

This rule addresses the registration and approval of out-of-state schools. No changes are being proposed to this rule.

3332-1-07 Equipment and Facilities

This rule addresses the equipment and facilities requirements for schools. A minor change is being made to clarify that facilities where in-person recruiting activities are being conducted must meet local and state facility use requirements. Key changes in the rule of listed below:

(A) All buildings where courses of instruction **or in-person recruiting activities** are being conducted must comply with all municipal, county, state, and federal regulations as to fire, safety, health, and sanitation codes or regulations.

3332-1-09 Student Enrollment Policies and Practices

This rule addresses student enrollment policies and practices. Several minor clarifications are being made to rule including a clarification to the provision regarding modification and review of enrollment contracts. Key changes in the rule of listed below:

(9) Date of publication and last date of revision **or review** as noted on the enrollment agreement. **All enrollment agreements and catalog should be reviewed at least once every two years and at the time of program or institutional changes and noted with a revision date.**

3332-1-10.1 Refunds for Books and Supplies

This rule addresses the circumstances and method for providing students refunds for books and supplies. No changes are being proposed to this rule.

3332-1-13 Surety Bonds

This rule addresses surety bond requirements for schools. No changes are being proposed to this rule.

3332-1-15 Program Authorization

This rule addresses the process for program authorization. A minor clarification is being made to the rule pertaining to program discontinuation. Key changes in the rule of listed below:

(4) No school may discontinue any program of instruction without board approval until such time as students therein have completed said program **or the program has otherwise been completed via teach-out** and the board has been notified.

3332-1-22 Fees for Certificate of Registration and Program Authorization

This rule addresses fees for certificates of registration and program authorization. No changes are being proposed to this rule.

3332-1-23 Annual Report

This rule addresses the annual reporting process for schools. No changes are being proposed to this rule.

3332-1-24 Graduation and Placement

This rule addresses student graduation and placement rates for schools. A minor clarification is being made to the rule pertaining to tracking graduation and placement rates as well as graduation rates for part-time students.

Key changes in the rule of listed below:

(B) Each school shall submit evidence which demonstrates that it has an acceptable **tracking method to** record **of** graduation rates and job placement rates for each program.

(E) The formula for calculating graduation rates for each program is based upon the number of full-time students or entering into a program in a particular year (cohort) who complete their program within one hundred fifty per cent of the normal time for completion. **The graduation rate for part-time students shall be conducted via similar methodology.**

3332-1-27 Personal Information Systems Definitions

This rule addresses personal information systems definitions. No changes are being proposed to this rule.

3332-1-28 Procedures for Accessing Confidential Personal Information

This rule addresses procedures for accessing confidential personal information. No changes are being proposed to this rule.

3332-1-29 Valid Reasons for Accessing Confidential Personal Information

This rule addresses valid reasons for accessing confidential personal information. No changes are being proposed to this rule.

3332-1-30 Confidentiality Statutes, Regulations and Rules

This rule addresses confidentiality statutes, regulations and rules that apply to confidential personal information. No changes are being proposed to this rule.

3332-1-31 Restricting and Logging Access to Confidential Personal Information

This rule addresses restricting and logging access to confidential personal information. No changes are being proposed to this rule.

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 3332.02 (Exceptions to the Chapter), ORC section 3332.05 (Certificates of Registration and Program Authorization), ORC section 3332.07 (Fees), ORC Section 3332.08 (Surety Bond), ORC Section 3332.09 (Suspension or Revocation of a Certificate of Registration), ORC Section 1347.15 (Access rules for confidential personal information).

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.

N/A

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 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 Ohio Revised Code and 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?

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

N/A

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.

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 spring of 2023 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 May 31, 2023 and the committee recommendations were initially discussed by SBCCS at its July 27, 2023 Board meeting. After additional stakeholder feedback was received, additional changes to the rules were presented to SBCCS at its September 26, 2023 Board meeting and SBCCS directed the staff to move forward with the placing the rules on the Board's web site for any additional stakeholder feedback and to move forward with filing the rules with CSI.

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 July 26, 2023 Board meeting. After the draft rules were posted on the Board's web site, additional stakeholder feedback was received and that feedback was incorporated into the rules that were presented to the Board at its September 27, 2023 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 regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

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

13. 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.

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 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

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**
- 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.

- 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 that the rules require a license or permit to operate (as required by the Ohio Revised Code) and that the rules require reporting of information although the proposed changes do not impose any specific new requirements related to authority to operate and/or reporting of information. It's not anticipated that the proposed changes will result in any significant cost increase.

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*).

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.

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

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 Ohio Revised Code and the Board's rules and regulations.

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.