



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Brittney Kneisel, Ohio Department of Education and Workforce

FROM: Michael Bender, Business Advocate

DATE: August 29, 2024

RE: CSI Review – Pupil Transportation (OAC 3301-83-01, 3301-83-04, 3301-83-05, 3301-83-06, 3301-83-07, 3301-83-08, 3301-83-09, 3301-83-10, 3301-83-11, 3301-83-12, 3301-83-13, 3301-83-14, 3301-83-15, 3301-83-16, 3301-83-17, 3301-83-18, 3301-83-19, 3301-83-20, 3301-83-21, 3301-83-22, 3301-83-24, and 3301-83-25)

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 as provided for in ORC 107.54.

Analysis

This rule package consists of twenty-two amended rules proposed by the Ohio Department of Education and Workforce (Department) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on August 12, 2024, and the public comment period was held open through August 19, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 12, 2024.

Ohio Administrative Code (OAC) 3301-83-01 provides for the calculation of pupil transportation operation payments. The rule is amended to update language and a citation, reflect the Department's current name, replace duplicative language with statutory and regulatory citations, and relocate a provision from OAC 3301-83-17 regarding reimbursement for miles traveled to transport resident preschool children and school age pupils to preschool programs and school-age child-care programs. OAC 3301-83-04 establishes the scope of OAC Chapter 3301-83. The rule is amended to update typography and add definitions for terms used in the chapter. OAC 3301-83-05 establishes

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responsibility for administration of pupil transportation operation and safety rules. The rule is amended to update language and grammar, require school bus owners to implement personnel policies and/or programs for bus drivers, reflect the Department's current name, and include a link to the Department's website. OAC 3301-83-06 sets forth various personnel qualifications related to pupil transportation. The rule is amended to update language, citations, and grammar, incorporate motor vans, reduce the time period for transportation directors/supervisors to complete the classroom portion of the Ohio pre-service driver training program from within a year of appointment to the position to within six months, require transportation directors/supervisors to comply with certain federal training requirements, reduce the age qualification for school bus drivers and motor van drivers from twenty-one to eighteen, reflect the Department's current name, prohibit individuals from operating a school bus or motor van if they committed a disqualifying offense, require all drivers to hold a valid Ohio's driver's license and school bus drivers to hold a valid commercial driver's license (CDL), require drivers to be enrolled by the Ohio State Board of Education in the retained applicant fingerprint database, require employers to implement drug and alcohol testing for motor van drivers, and remove provisions pertaining to drivers of vehicles other than school buses utilized for pupil transportation.

OAC 3301-83-07 outlines the physical qualifications for school transportation drivers. The rule is amended to update language, grammar, and citations, incorporate motor vans, replace duplicative language with statutory citations, reflect the Department's current name, allow medical examiners to certify individuals upon determination that diabetes mellitus is not likely to impair driving ability, clarify that the use of prescription drugs not in accordance with a valid prescription is prohibited, remove the requirement for the employing school bus owner to file a copy of the examination report with the Department, reduce the time period for individuals to have a driving record from the preceding three years to two for insulin dependent waiver purposes, reflect the self-monitoring blood glucose device's electronically logged blood glucose values, establish a three-month historical record as the minimum time period to provide evidence of long-term glycemic control, remove certain reporting requirements, reduce the commercial motor vehicle experience requirement from three years to two, and increase the length of waiver validity from three years to six. OAC 3301-83-08 provides for the development of pupil transportation management policies. The rule is amended to update language, add statutory citations, clarify that pupils must wait in a designated place of safety, clarify that pupils must remain seated behind the barrier, and require drivers and bus aides to have access to information that might affect pupil management. OAC 3301-83-09 provides for the instruction of pupils. The rule is amended to update language and the rule title, require school districts to implement a school bus safety orientation program, and clarify that pupils must be instructed to remain seated behind the barrier during nonroutine use of school buses. OAC 3301-83-10 specifies personnel training requirements. The rule is amended to update language and citations, reflect the Department's current name, distinguish the certificates issued by school administrators or contractors from the training certificate issued by the training instructor, include defensive driving techniques as

part of the minimum bus driver instruction, include liability and responsibility in pre-service classroom instruction, require a valid CDL with proper endorsements as a precondition for issuance of a school bus driver training certificate, relocate provisions from OAC 3301-83-06 regarding minimum motor van training, require drivers that fail to successfully demonstrate driving skills on the fourth opportunity to repeat initial training, allow certification qualifications for classroom instruction and driving skills to be substituted if certain alternatives are completed during the driver's current six-year certification period rather than only within twenty-four months prior to the current certificate's expiration, clarify circumstances that may cause a completion of training certificate to be revoked, and require school districts to identify, share, and encourage bus drivers to participate in professional development opportunities.

OAC 3301-83-11 outlines requirements for school bus inspections. The rule is amended to update language and the rule title, incorporate motor vans, set forth the responsibilities to ensure inspections by a qualified mechanic, reflect current mechanical features, reduce time-consuming tasks not proven to increase safety, and require inspection of rear mud flaps. OAC 3301-83-12 provides for proper safety procedures during the operation of a school bus. The rule is amended to update language and referenced materials, incorporate motor vans, relocate bus stop procedures from OAC 3301-83-13, and add statutory citations regarding bus stop procedures. OAC 3301-83-13 provides for school bus routes and stops. The rule is amended to update language and grammar, increase the amount of time that local boards of education have to implement bus stops and a time schedule from not later than ten days after the beginning of the school term to not later than thirty days after, require school districts to develop a transportation plan and provide the plan to community and chartered nonpublic schools pursuant to statute, require school districts to consider proximity to registered sex and child-victim offenders when selecting bus stop locations, require the superintendent to communicate changes to bus stop locations and drop-off/pick-up times to parents and guardians, replace duplicative language with statutory and regulatory citations, and require school districts to conduct safety audits of their bus routes, bus stops, and drop-off/pick-up sites. OAC 3301-83-14 contains recordkeeping and reporting requirements. The rule is amended to update and grammar, reflect the Department's current name, incorporate motor vans, reflect that accident data is reported electronically, and relocate a provision from OAC 3301-83-22 concerning the submission of accident data to the Ohio State Highway Patrol (OSHP). OAC 3301-83-15 outlines emergency and evacuation procedures. The rule is amended to update language, grammar, and typography, incorporate motor vans, require school bus and motor van owners to provide seizure training to bus drivers pursuant to statute, require emergency policies to include notification of accidents to the OSHP, and require school bus and motor van owners to post emergency policies online or make them available upon request.

OAC 3301-83-16 sets forth requirements regarding non-routine use of school buses. The rule is amended to update language, correct spelling, incorporate motor vans, reflect the Department's current name, clarify that pupils must be instructed to remain seated behind the barrier, require the

approval of the vehicle and operator as a commercial motor carrier pursuant to Public Utilities Commission of Ohio regulations, and remove duplicative provisions. OAC 3301-83-17 distinguishes between authorized and unauthorized school bus passengers. The rule is amended to update language and grammar, capture all categories of authorized preschool passengers, remove a provision regarding reimbursement for miles traveled to transport resident preschool children and school age pupils to preschool programs and school-age child-care programs, allow school employees to be authorized passengers for non-routine trips pursuant to OAC 3301-83-16, and add flexibility at the local level to allow the transportation of adult passengers in emergency situations. OAC 3301-83-18 addresses passenger capacity. The rule is amended to update language and incorporate motor vans. OAC 3301-83-19 describes which vehicles may be authorized for transportation of pupils to and from school and school-related events. The rule is amended to update language, grammar, and citations, incorporate motor vans, and require districts and schools to implement policies to ensure student safety when contracting with commercial or charter bus services. OAC 3301-83-20 specifies general rules concerning pupil transportation. The rule is amended to update language and citations, incorporate motor vans, and reflect the Department's current name.

OAC 3301-83-21 concerns the ability of county boards of developmental disabilities to provide transportation services to eligible children ages three to twenty-one who are enrolled in Department-funded programs. The rule is amended to update language and citations, reflect the Department's current name, replace duplicative language with a regulatory citation, require local boards of education to provide transportation for all children with disabilities in their districts who are enrolled in a nonpublic school if the school district is provided with supporting documentation from the child's individual education program pursuant to statute, and clarify that the provision of transportation services by county boards is subject to agreements with the appropriate school district, county board, and parent/guardian. OAC 3301-83-22 requires school buses and other vehicles used to transport school children to be maintained in safe operating condition. The rule is amended to update language, require quarterly inspections by a qualified mechanic, and remove a provision concerning the submission of accident data to the OSHP. OAC 3301-83-24 describes when fees may and may not be charged for school transportation. The rule is amended to update language, correct spelling, incorporate motor vans, and make it optional rather than required for local board of education and county boards of developmental disabilities to recover costs associated with non-routine use of school buses for outside agencies. OAC 3301-83-25 allows local school districts to apply to the Department for a transportation collaboration grant. The rule is amended to update language, reflect the Department's current name, and remove language regarding applications for past fiscal years.

During early stakeholder outreach, the Department held two comment periods to seek feedback on the rules from stakeholders. The comment periods were held from November 9-December 10, 2023, and from April 17-May 17, 2024. Between the two comment periods, the Department received a total of twenty-eight comments. The Department also presented the proposed rules at a public meeting on

May 9, 2024, where one stakeholder association offered comments during an opportunity for discussion. Between November 2023 and March 2024, the Department conducted various meetings with the Ohio Department of Public Safety (DPS), the Ohio School Boards Association, the Ohio Association for Pupil Transportation (OAPT), the Ohio Association of County Boards of Developmental Disabilities, the Franklin County Board of Developmental Disabilities, pre-service instructors, and transportation directors to receive input on the rules. Furthermore, the Governor of Ohio convened the Ohio School Bus Safety Working Group (Working Group), which is comprised of safety researchers as well as representatives from the Department, DPS, the OAPT, the Ohio Department of Insurance, and the Ohio School Bus Mechanics Association. Multiple times throughout the last quarter of 2023, the Working Group met and examined the safety of individuals traveling on Ohio school buses. The Working Group released a report in January 2024 outlining seventeen recommendations for improvement. While not every suggestion was accepted, the proposed changes reflect the input that the Department received from stakeholder comments, stakeholder meetings, and the Working Group report. Other proposed revisions derived from House Bill 33 of the 135th Ohio General Assembly, namely the expanded authority to use motor vans. No comments were received during the CSI public comment period, although the Department revised the rules to update a citation and make technical corrections.

The business community impacted by the rules includes owners and drivers of school buses, motor vans, and vehicles that transport pupils. The adverse impacts created by the rules include meeting qualifications, obtaining certification and/or licensure, completing training, and compliance with the requirements for pupil transportation. Participation in the pre-service program for bus drivers costs approximately \$85 and takes approximately fifteen hours of classroom instruction and twelve hours of practical training with an instructor. Completion certificates are valid for six years. To be recertified, drivers must participate in the program, receiving nine hours of classroom instruction and completing a skills assessment with an instructor. Drivers must also pay a recertification fee of approximately \$60. Motor van drivers must have four classroom hours of pre-service training and pay approximately \$85. For first-time bus driver applicants, the costs to receive a CDL at a state-owned testing facility includes \$42 for a CDL card, \$10 for a pre-trip inspection, \$10 for a basic maneuverability test, and \$30 for a road test. It costs \$44.75 to renew a CDL. According to the Department, some rule changes reduce the regulatory impact on businesses, particularly the reduction in reporting requirements, which it asserts will not impact transportation safety. The Department states that the adverse impacts to business are justified to implement statutory requirements, comply with federal regulations, and ensure pupil transportation safety.

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 rules with the Joint Committee on Agency Rule Review.