



# Common Sense Initiative

Mike DeWine, Governor  
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## Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

Approval (Chartering) of Nonpublic Schools; Rules describe the process used by the Ohio Department of Education and Workforce to issue a charter to a nonpublic school.

Rule Number(s): 3301-39-01; 3301-39-03; 3301-39-04

Date of Submission for CSI Review: \_\_\_\_\_

Public Comment Period End Date: \_\_\_\_\_

Rule Type/Number of Rules:

New/\_\_\_ rules

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

Amended/ 3 rules (FYR? No)

Rescinded/\_\_\_ rules (FYR?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

OAC 3301-39-01, 03, and 04 establish the procedures and requirements related to the issuance of a charter for a nonpublic school. Per the Revised Code, all chartered nonpublic schools must comply with the Operating Standards for Districts and Chartered Nonpublic Schools.

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.

Authority: ORC 3301.07(D)(2) and (N); Amplifies: 3301.07 (D)(2), 3301.16, 3317.024, 3317.06, and 3327.01

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 authorizing statute directs that the department may adopt rules necessary for carrying out the function of approving chartered nonpublic schools.

Chartered nonpublic schools (unlike nonchartered nonpublic schools) receive state funding for administrative cost reimbursement and auxiliary services and are eligible to participate in one or more of the state-funded scholarship programs. Students' district of residence must provide transportation to eligible students attending chartered nonpublic schools.

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

The agency tracks the number of charter applications and processing time of program applications. The agency also tracks requests for technical assistance by applicants.

**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 of Education and Workforce sought feedback on the rules through open comment periods. On June 4, 2025, the Department published on its website for public comment the current Chapter 39 rules. Public notices were sent to stakeholders through the EdConnection and GovDelivery regarding the posting. The public comment period closed on June 18, 2025.

The Department published the draft rules and the draft Business Impact Analysis (BIA), which examines the cost of compliance to businesses, on its website on July 14, 2025. That public comment period will close on August 13, 2025.

The Department's Office of Nonpublic Education held two webinars (12/12/24 and 6/5/25) to review the existing rules and explain the rulemaking process. Invitations to the webinars included all chartered nonpublic schools and members of the Director's Nonpublic Superintendents Advisory Council.

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

The agency received three specific pieces of feedback:

1) Suggestion that public district where the chartered nonpublic school is located receive notice of issues of noncompliance by a chartered nonpublic school. It was determined that since the Agency may utilize a corrective action plan to address issues of noncompliance, that notice of noncompliance was unnecessary.

2) Suggestion that the school district where the chartered nonpublic school is located be notified when a chartered nonpublic school has its charter revoked. Notice to school districts already takes place. Student records from a closed school are returned to students' district of residence. It was determined that since notice takes place to all applicable school districts when a school closes that additional notice was unnecessary.

3) Suggestion that site visits that take place prior to issuance of an initial charter do not need to take place when school is in session and students are present. It is critical to be able to see a school in operation to determine compliance with requirements related to curriculum and instruction. The Agency works as quickly as possible to schedule site visits and issue charters, but determined it is necessary to conduct site visits while school is in session and students and teachers are present.

**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 utilized to develop the rule. Data regarding processing time was reviewed to determine if the overall timeline for chartering could be reduced.

**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.*

As the adoption of rules is recommended by the empowering statute, the agency did not consider alternative regulations. However, the agency did consider how the process could be streamlined and shortened without sacrificing the integrity of the chartering process.

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

The agency confirmed that only the Department of Education and Workforce has authority to issue a charter to a nonpublic school. Additionally, the rules amended here (Chapter 39 rules) are not duplicative of other department regulations.

**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 agency publishes information regarding chartering requirements and the chartering process on their website. The Agency also provides technical assistance to schools seeking a charter and hold regular information sessions in both in person and virtual formats. The Agency monitors program productivity measures and requires annual staff training.

**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**

Nonpublic schools may have costs associated with preparation of documents necessary to receive a charter. Requirements for documentation focus only on what is required under state statute. Costs associated with these rules will vary by school. Schools that are accredited by a recognized association will require less time and limited cost to meet requirements.

**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.*

There are no fees charged by the agency to facilitate the chartering process and no fines are levied. Compliance with the regulations will require employer time, but the costs associated with these rules will vary by school. Schools that are accredited by a recognized association will require less time and limited cost to meet requirements.

- 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*).**

The application timeframe for schools seeking an initial charter have been expanded by 15 days. Additionally, the timeframe through which a school seeking an initial charter may complete department requirements for chartering has been extended by 12 months.

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

Implementation of statute requires that the Department ensure that schools seeking a charter provide evidence of compliance with the Operating Standards.

### **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?**

No fines are levied. The rules provide for the use of corrective action plans due to noncompliance as opposed to immediate revocation of the school's charter.

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

The agency provides training and technical assistance for schools seeking a charter. All schools are assigned a specific point of contact in the Agency to help address any issues and concerns.