

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Education

Regulation/Package Title: Operating Standards for Ohio's Schools

Rule Number(s): 3301-35-01, 3301-35-02, 3301-35-03, 3301-35-04, 3301-35-05, 3301-35-06,
3301-35-07, 3301-35-08, 3301-35-09, 3301-35-10

Date: Revised December 8, 2014

Rule Type:

☐ New
☒ Amended

☐ 5-Year Review
☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Rules 3301-35-01 through -10 of the Administrative Code comprise part of the Operating Standards for Ohio's Schools that impact chartered and non-chartered non-public schools.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

The proposed changes to the rules are made pursuant to the requirements of five year rule review and will align rule content with current law.

Rules 3301-35-01 through 3301-35-07 set forth standards that apply to schools in the State of Ohio.

Rule 3301-35-01 contains those definitions that apply throughout the chapter. The definition of school and school district is inclusive of all types of schools, including chartered nonpublic schools. Rule 3301-35-09 specifies that rules 3301-35-01 through 3301-35-07 apply to chartered nonpublic schools except for specified portions of rule 3301-35-05.

Rule 3301-35-02 states that boards of education are responsible for developing policies governing their district's operations and educational programs that are consistent with law. This rule also states that strategic planning is the responsibility of a board of education.

Rule 3301-35-03 addresses blended learning, and requires boards of education and chartered nonpublic schools that operate a school or classroom as a blended learning environment to adopt policies and procedures in accordance with R.C. 3302.41.

Rule 3301-35-04 requires schools to communicate expectations of academic performance, attendance and conduct, and to use data and to communicate with stakeholders concerning student performance. This rule requires the study of personal safety and assault prevention, foreign language, technology, family and consumer science, and business education. The rule sets criteria for a school's assessment system and requires that students have the opportunity to participate in advanced standing coursework. Finally, the rule requires monitoring of student achievement, maintenance of records, and policies on promotion and retention, admission, placement and withdrawal.

Rule 3301-35-05 (excluding those sections that do not apply to chartered nonpublic schools) requires that staff be employed in accordance with state and federal law; that staff hold the appropriate credentials for their position; that every school be provided with the services of a principal; that schools use data to support professional development; and that teachers have time for planning.

Rule 3301-35-06 requires that educational programs are designed to meet the needs of students; that a school works with its stakeholders, including during its budget process, and that educational options meet certain criteria.

Rule 3301-35-07 requires that schools use data for the purpose of improving educational performance; that any reports of data to EMIS are timely and accurate; sets forth those situations under which the Department of Education may conduct a site evaluation and the communication of the results of that evaluation to the school and the community; sets forth that noncompliance with the operating standards may be cause for the initiation of efforts to revoke a school's charter, and specifies that the state superintendent may grant waivers to the rules.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Rule 3301-35-08 of the Administrative Code sets minimum standards for non-chartered, non-tax supported schools. The following are current requirements: The non-chartered, non-tax schools serve as an option for parents with truly held religious beliefs to meet the required school attendances laws. The schools must register annually with the Department of Education. Parents must inform their school district of residence if their children attend a non-chartered, non-tax supported school. Teachers in the school must have a four year post-secondary degree from a recognized college or university. Schools must have courses of study in specified content areas. Schools must have a formalized grade promotion system. Schools must comply with safety and health requirements set by state and local health, fire and safety agencies. Tax supported services are not available for non-chartered, non-tax supported school students which include bus transportation and state funded auxiliary service materials or supports. These schools must provide a minimum number of hours of instruction.

The amounts for minimum hours of instruction were updated during the rule review to reflect current law. The current law and revised rule language provide more flexibility to schools as they schedule their school day and year and could decrease costs for school to operate.

Rule 3301-35-09 of the Administrative Code sets minimum standards for chartered nonpublic schools (commonly called “private” schools). The following are current requirements: Chartered nonpublic schools must be accredited and comply with Rules 3301-35-01 to -07 of the Administrative Code. These seven rules establish guidelines for school governance, staffing, education of students and use of data in schools, and are described in more detail above. Failure to comply with these rules can lead to revocation of the charter. Rule 3301-35-09 of the Administrative Code establishes an exception to Rule 3301-35-05 thereby allowing religious schools to discriminate in hiring practices based on truly held religious beliefs. The rule also establishes the Superintendent of Public Instruction’s Nonpublic Advisory Committee and requires the schools to provide a minimum number of hours of instruction (which is required by R.C. 3313.48).

The amounts for minimum hours of instruction were updated during the rule review to reflect current law. The current law and revised rule language provide more flexibility to schools as they schedule their school day and year and could decrease costs for school to operate.

Rule 3301-35-10 of the Administrative Code outlines procedures for beginning a new school and for changing location or ownership of a school. The rule applies to chartered nonpublic schools (commonly called “private” schools). The following are current requirements: The superintendent of the new school must attend a workshop about beginning a new school and submit a plan and timeline for meeting the required operating standards (Rules 3301-35-01 to -07) and Rules 3301-39-01 to 3301-39-04 of the Administrative Code regarding approval of nonpublic schools. The school may then operate under a letter of approval for up to four years. During this period it is evaluated by the Department of Education. The State Superintendent of Public Instruction may recommend that the State Board of Education grant a charter when an on-site evaluation indicates that a school is meeting operating standards.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Once an evaluation indicates that the school is meeting the operating standards, the Superintendent of Public instruction may recommend that the State Board of Education grant the school a charter.

During the rule review, the requirement for chartered nonpublic schools to comply with Rules 3301-39-01 to -04 of the Administrative Code was changed so that the schools must comply with Rules 3301-39-01 to -03 since Rule 3301-39-04 no longer exists.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Division (D) (2) of Section 3301.07 of the Revised Code requires the State Board of Education to formulate and prescribe minimum standards to be applied to all elementary and secondary schools in this state for the purpose of providing children access to a general education of high quality according to the learning needs of each individual, including students with disabilities, economically disadvantaged students, limited English proficient students, and students identified as gifted. Such standards shall provide adequately for: the licensing of teachers, administrators, and other professional personnel and their assignment according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration, and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; the provision of safe buildings, grounds, health and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will assure that they are capable and prepared for the level of study to which they are certified; requirements for graduation; and such other factors as the board finds necessary.

3. 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.

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

N/A

5. 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)?

R.C. 3301.07(D)(2) requires the state board to formulate and prescribe minimum standards to be applied to all elementary and secondary schools in this state. These standards shall provide for the licensing of teachers and personnel; the proper organization, administration,

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; admission of pupils; and requirements for the promotion of students, among other subjects. The purpose of Chapter 3301-35 of the Administrative Code is to meet this charge.

Rules 3301-35-08 and 3301-35-09 of the Administrative Code provide a minimum set of expectations for chartered nonpublic schools and for non-chartered, non-tax supported schools. These minimum standards help ensure that all schools provide students quality instruction and a safe, healthy learning environment.

Specifically, without Rule 3301-35-08 of the Administrative Code, parents who choose not to send their children to public or chartered nonpublic schools because of a truly held religious belief could be in violation of school attendance laws.

Additionally, without Rule 3301-35-10 of the Administrative Code, there would not be a process for the State Board to charter and recognize certain nonpublic ("private") schools.

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

The department's staff has the ability to note any increased call or email volume as a result of questions or complaints from schools impacted by the rule changes.

Development of the Regulation

7. 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 following stakeholders participated in a panel discussion that occurred during an early State Board of Education's Operating Standards Committee meeting on December 9, 2013:

- Theresa Bowser, Ohio Catholic Conference
- Dan Dodd, Ohio Association of Independent Schools
- Cindy Hartman, Coalition for Rural and Appalachian Schools
- Deb Tulley, Ohio Federation of Teachers
- Scott DiMauro, Ohio Education Association
- Mike McCarty, Clinton-Massie School Board Member
- Jerry Klenke, Buckeye Association of School Administrators
- Rob Delane, Ohio School Boards Association
- Melissa Cropper, Ohio Federation of Teachers

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

At this time, stakeholders have been informed of the plan to amend the rules and have been told where to find information about the rule process. Additionally, they were asked for input on the proposed rules and the process.

Information about each Operating Standards Committee meeting, including minutes, rule drafts and agendas, have been posted to the State Board of Education's website, <http://education.ohio.gov/State-Board/Committees/Operating-Standards-Committee>

Opportunities for stakeholder feedback were included during twelve Operating Standards Committee agendas. The Committee chair often invited feedback from the audience even when there was not a specific time for stakeholder feedback scheduled. On September 15, 2014, a stakeholder addressed the committee regarding Rule 3301-35-08. (Details of that address are in the response to question eight.)

An email account was created specifically to collect feedback on the rules. The email address was posted on the website noted above. Emails received were shared with the Committee. An email regarding Rule 3301-35-08 was received on September 7, 2014. An email regarding Rule 3301-35-09 was received on October 23, 2014. (Details of these emails are in the response to question eight.)

When Rules 3301-35-08 and 3301-35-09 came before the Committee, special email notices were sent to stakeholders impacted by those rules. These emails were sent on August 11, September 12, and October 21, 2014.

Feedback provided by stakeholders was logged by department staff.

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

Stakeholders objected to a recommendation made to the Committee by the department that language be added to Rule 3301-35-08 emphasizing that non-chartered, non-tax supported schools must comply with Section 3313.536 of the Revised Code. Stakeholders from the non-chartered, non-tax supported schools objected to the proposed change via an email sent to staff on September 7, 2014, and also testified before the Committee on September 15, 2014. As a result of both the email and testimony, the Committee voted to reject the Department's recommendation.

The Ohio Association of Independent Schools ("OAIS") sent an email on October 23, 2014, the day after the Committee voted on rule 3301-35-09, providing feedback. OAIS requested stronger differentiation between public and chartered nonpublic ("private") schools, more flexibility in staffing in private schools and objected to site visits under Rule 3301-35-07. The association also requested that a waiver under division (O) of Ohio Revised Code Section 3301.07 be required by rule to have a time frame for granting such a waiver and for the Superintendent to show evidence for denial of such waiver.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Rule 3301-35-09 specifically differentiates between those portions of the Operating Standards that do and do not apply to chartered nonpublic schools. In addition, chartered nonpublic schools need not comply with those portions of the rules that are patently inapplicable to them. (For example, value added is a statistical measure calculated by the Ohio Department of Education for public school districts. So long as value added is not applicable by state law to chartered nonpublic school districts, chartered nonpublic schools are not required to analyze their value added results.)

The provisions for the waiver under division (O) of Ohio Revised Code Section 3301.07 exist in law, not administrative code, and the law does not create an appeal right.

The rules' requirements concerning staffing now create flexibility for all types of schools related to providing the services of a principal. Requirements concerning the credentialing of staff reflect long-standing department interpretation designed to protect the safety of students.

The Department of Education conducts site visits for two reasons. First, the department conducts site visits in order to monitor the use of state and federal funds. Site visits are necessary to ensure accountability in the use of these funds. Second, the department may conduct a site visit in response to a complaint that a chartered nonpublic school is not complying with the requirements of Rule 3301-35-01 to -07. Compliance with these rules is required in order for the school to maintain its charter.

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 used in the development of these rules.

9. 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?

The agency did not consider any alternative regulations for these rules, some of which exist as the only means to recognize certain types of schools for the purpose of meeting school attendance laws and to ensure a minimum level of health, safety and educational standards for those schools. Most of the rules have been in place for many years with little negative feedback from stakeholders. The proposed changes to the rules increase flexibility for the schools that they regulate and align them with current law. A large number of the revisions to the rules were technical in nature or removed requirements in order to increase flexibility for all schools.

10. 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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Performance-based regulations would not be appropriate for Rules 3301-35-01 through -09 of the Administrative Code as they establish standards for health, safety, instruction, and school attendance.

Rule 3301-35-10 of the Administrative Code, however, could be considered a performance-based regulation. It establishes that schools must come into compliance with the Operating Standards before receiving a charter, but does not dictate the process for achieving compliance.

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

The guiding principles of this revision process were to:

- Increase flexibility for all schools and school districts by eliminating unnecessary requirements; and
- Streamline the standards by removing requirements that just duplicate or reference the Revised Code.

The rules were reviewed meticulously by the department's legal staff, policy staff and program staff. Staff was instructed to flag any references to or redundancies in Revised Code. The Committee agreed to remove these references and redundancies unless they were needed for emphasis or to reduce confusion.

12. 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.

All of the remaining rules have been in effect for a long time, and are well understood and already implemented by nonpublic schools. As most of the changes reflect either the removal of a requirement or are technical in nature, implementation should be relatively simple. Changes will be communicated via the new, customer-focused Operating Standards website, which is in development, and through regular communications to the schools.

Adverse Impact to Business

13. 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;

3301-35-08 impacts non-chartered non-tax supported schools, which are nonprofit in nature.

3301-35-01 through 3301-35-07, 3301-35-09 and 3301-35-10 impact chartered nonpublic schools ("private schools"), which are also nonprofit in nature.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Rule	Requirement	Nature
3301-35-01	The definition of school and school district includes chartered nonpublic schools. This is consistent with Rule 3301-35-05, which specifies the extent to which rules 3301-35-01 through -07 apply to chartered nonpublic schools.	See successive sections for discussion of specific requirements.
3301-35-02	The governing authority of a chartered nonpublic school is responsible for developing policies governing the school's operations and educational programs. The governing authority is responsible for strategic planning and policies and procedures regarding student health and safety.	employee time
3301-35-03	A chartered nonpublic school that operates a blending learning environment must have policies and procedures that are consistent with the statutory requirements set forth in R.C. 3302.41.	employee time
3301-35-04(A)	A school or school district must set and communicate standards for academic performance, attendance, and conduct; monitor its performance and that of its students; seek to continually improve; and communicate with stakeholders and parents.	employee time
3301-35-04(B)	A school or school district shall implement a district-wide curriculum that is developed with input from parents and other stakeholders, and adopt courses of study for each course taught. In addition to those subjects required by the Revised Code, a school district shall provide for the study of personal safety and assault prevention for grades kindergarten through six, and foreign language, technology, family and consumer sciences, and business education. A school district shall provide for an assessment system that aligns with its courses of study.	employee time
3301-35-04(C)	A school or school district shall provide every student with opportunities to acquire the knowledge and skills required to meet local course of study objectives.	employee time and resources/supplies
3301-35-04(D)	Chartered nonpublic schools shall provide students with the opportunity to earn credits toward graduation through programs, including dual enrollment programs.	employee time and resources/ supplies
3301-35-04(E)	Student achievement shall be monitored according to established procedures, progress reports shall be provided, cumulative records shall be maintained, criteria for decisions on student promotion and retention shall be established; policies on student admission, placement and withdrawal shall be followed; and the school shall have established policies for the admission of students to kindergarten and first grade (in accordance with state law regarding age requirements for these students).	employee time and resources/ supplies

Rule	Requirement	Nature
3301-35-05(A)(1), (4)-(8)	Credentialed staff shall hold the appropriate credentials for their positions; every school shall have the services of a principal; staff shall be evaluated; data shall be used to plan professional development; and teachers shall be given planning time.	employee time
3301-35-06(A)(4)	Phonics shall be used as a technique to teach reading in kindergarten through third grade.	employee time and resources/ supplies
3301-35-06(B)	The chartered nonpublic school shall work with key stakeholders, including during the development of its budget.	employee time
3301-35-06(C)	The chartered nonpublic school district shall communicate information and procedures related to credit flexibility and educational options available in the school district to students, parents, and interested stakeholders. (Note: even if these schools are not required to participate in credit flex, they may choose to offer this option).	employee time
3301-35-07(A)-(E)	A chartered nonpublic school shall collect and analyze data on its students that is valid and reliable, and use this data to improve performance, evaluate organizational effectiveness, and report to parents, students and stakeholders.	employee time
3301-35-07(F)	The department may conduct site evaluations of all schools, and issue a report of its recommendations. The chartered nonpublic school must notify parents and other stakeholders of the report and make it available to them.	employee time
3301-35-07(G)	All schools shall conduct a comprehensive review of their educational programs and organizational effectiveness for compliance with law and alignment with the school's mission.	employee time
3301-35-07(H)	Failure to comply with the applicable rules is cause to initiate efforts to revoke the school's charter pursuant to Chapter 119. The department of education may investigate allegations of noncompliance with the rules in Chapter 3301-35.	potential loss of charter; employee time responding to investigation
3301-35-08	Certify in a report to the parents of its pupils that the school meets Ohio minimum standards for non-chartered, non-tax supported schools. File the report with the department by September 30	employee time and resources/ supplies
3301-35-08 (A)	The school shall be open for instruction with pupils in attendance for not less than four hundred fifty-five hours in the case of pupils in kindergarten unless such pupils are provided all-day kindergarten, in which case the pupils shall be in attendance for nine hundred ten hours; nine hundred ten hours in the case of pupils in grades one through six; and one thousand one hours in the case of pupils in grades seven through twelve in each school year	employee time and resources/ supplies

Rule	Requirement	Nature
3301-35-08 (B)	Pupil attendance shall be reported to facilitate administration of laws relating to compulsory education and the employment of minors. The report shall include the name, age, and place of residence of each pupil under age 18. The report shall be made to the treasurer of the board of education of the local school district in which the pupil resides.	employee time and resources/ supplies
3301-35-08 (D)	Each non-chartered, non-tax supported school shall have courses of study for the following subjects: Language arts, Geography, the history of the United States and Ohio, and national, state, and local government, mathematics, science, health, physical education, the fine arts (including music), first aid, safety, and fire prevention, other subjects as prescribed by the non-chartered, non-tax supported school.	employee time and resources/ supplies
3301-35-08 (E)	Each non-chartered, non-tax supported school shall follow regular procedures for promotion from grade to grade of pupils who have met the school's educational requirements.	employee time
3301-35-08 (F)	Each non-chartered, non-tax supported school shall comply with state and local health, fire, and safety laws.	
3301-35-09 (A) (1) and (A)(2)	A nonpublic school shall assure that students are provided a general education of high quality by either: (1) Being accredited by an association whose standards have been reviewed by the state superintendent's advisory committee on chartered nonpublic schools and approved by the state board of education; or (2) Showing compliance with rules 3301-35-01 to 3301-35-07 of the Administrative Code (with some exceptions)	employee time
3301-35-09 (C)	Each chartered nonpublic school constituency group including the Association of Christian Schools International; the Catholic Conference of Ohio; the Government Affairs Committee of Ohio Jewish Communities, Inc.; the Lutheran Schools of Ohio; the Ohio Association of Independent Schools; and the Seventh Day Adventist Schools, Ohio Conference shall have a representative on the Superintendent of Public Instruction's advisory committee on chartered nonpublic schools	employee time
3301-35-10 (A) (1)	The superintendent shall contact the department about beginning a school and shall attend the "beginning a chartered nonpublic school" workshop conducted by the department of education	employee time

Rule	Requirement	Nature
3301-35-10 (A) (3)	The superintendent shall submit to the Ohio department of education a plan for meeting operating standards.	employee time and resources/ supplies
3301-35-10 (B)	A change in location or ownership of any school shall comply with section 3313.48 of the Revised Code and be reported to the department.	employee time

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.

Rule	Requirement	Cost
3301-35-01	The definition of school and school district includes chartered nonpublic schools. This is consistent with Rule 3301-35-05, which specifies the extent to which rules 3301-35-01 through -07 apply to chartered nonpublic schools.	See successive sections for discussion of specific requirements.
3301-35-02	The governing authority of a chartered nonpublic school is responsible for developing policies governing the school's operations and educational programs. The governing authority is responsible for strategic planning and policies and procedures regarding student health and safety.	Depends on the time spent to develop a strategic plan and policies for the school, and the salaries of the personnel performing the work
3301-35-03	A chartered nonpublic school that operates a blending learning environment must have policies and procedures that are consistent with the statutory requirements set forth in R.C. 3302.41.	Required by R.C. 3302.41
3301-35-04(A)	A school or school district must set and communicate standards for academic performance, attendance, and conduct; monitor its performance and that of its students; seek to continually improve; and communicate with stakeholders and parents.	Depends on the amount of time spent on developing standards in these areas, and the method of communications used by the school.
3301-35-04(B)	A school or school district shall implement a district-wide curriculum that is developed with input from parents and other stakeholders, and adopt courses of study for each course taught. In addition to those subjects required by the Revised Code, a school district shall provide for the study of personal safety and assault prevention for grades kindergarten through six, and foreign language, technology, family and consumer sciences, and business education. A school district shall provide for an assessment system that aligns with its courses of study.	Depends on the amount of time spent on developing curriculum and courses of study, and determining the school's assessment system.

Rule	Requirement	Cost
3301-35-04(C)	A school or school district shall provide every student with opportunities to acquire the knowledge and skills required to meet local course of study objectives.	These are the same costs needed to fulfill the purpose of a school: teachers, staff, instructional materials and other resources.
3301-35-04(D)	Chartered nonpublic schools shall provide students with the opportunity to earn credits toward graduation through programs, including dual enrollment programs.	Required by R.C. 3313.6013 and 3313.603
3301-35-04(E)	Student achievement shall be monitored according to established procedures, progress reports shall be provided, cumulative records shall be maintained, criteria for decisions on student promotion and retention shall be established; policies on student admission, placement and withdrawal shall be followed; and the school shall have established policies for the admission of students to kindergarten and first grade (in accordance with state law regarding age requirements for these students).	Depends upon the amount of time used to monitor student achievement and to adopt policies on subjects that are of critical importance to the operation of a school, such as promotion and retention, and maintenance of records.
3301-35-05(A)(1), (4)-(8)	Credentialed staff shall hold the appropriate credentials for their positions; every school shall have the services of a principal; staff shall be evaluated; data shall be used to plan professional development; and teachers shall be given planning time.	Depends on the size of the school and the number of employees.
3301-35-06(A)(4)	Phonics shall be used as a technique to teach reading in kindergarten through third grade.	Required by R.C. 3301.07(M). The cost is the cost of purchasing appropriate instructional materials. A school would be teaching reading in kindergarten through third grade regardless of this particular rule, which concerns one method of teaching reading.

Rule	Requirement	Cost
3301-35-06(B)	The chartered nonpublic school shall work with key stakeholders.	Depends on the amount of time spent working with stakeholders; no specific amount is required by the rule.
3301-35-06(C)	The chartered nonpublic school district shall communicate information and procedures related to credit flexibility and educational options available in the school district to students, parents, and interested stakeholders. (Note: even if these schools are not required to participate in credit flex, they may opt to offer this option).	Depends upon the means of communication chosen. Should be minimal as this communication can be included in existing communications, such as a parent or student handbook.
3301-35-07(A)-(E)	A chartered nonpublic school shall collect and analyze data on its students that is valid and reliable, and use this data to improve performance, evaluate organizational effectiveness, and report to parents, students and stakeholders.	Depends upon the school's use of data, and the salaries of the employee(s) engaged in these tasks.
3301-35-07(F)	The department may conduct site evaluations of all schools, and issue a report of its recommendations. The school must notify parents and other stakeholders of the report, and make it available to them.	The cost of this notification should be minimal, particularly if notification is done electronically. If done via mail, then the cost of paper and postage.
3301-35-07(G)	All schools shall conduct a comprehensive review of their educational programs and organizational effectiveness for compliance with law and alignment with the school's mission.	Depends upon the amount of time devoted to self-review, which is not specified in the rule.

Rule	Requirement	Cost
3301-35-07(H)	Failure to comply with the applicable rules is cause to initiate efforts to revoke the school's charter pursuant to Chapter 119. The department of education may investigate allegations of noncompliance with the rules in Chapter 3301-35.	Potential costs include staff time to respond to investigations or correspondence; possible attorneys fees. Amount varies widely depending upon the seriousness of the matter under investigation.
3301-35-08	Certify in a report to the parents of its pupils that the school meets Ohio minimum standards for non-chartered, non-tax supported schools. File the report with the department by September 30	Free by email or no more than the cost of postage and printing
3301-35-08 (A)	The school shall be open for instruction with pupils in attendance for not less than four hundred fifty-five hours in the case of pupils in kindergarten unless such pupils are provided all-day kindergarten, in which case the pupils shall be in attendance for nine hundred ten hours; nine hundred ten hours in the case of pupils in grades one through six; and one thousand one hours in the case of pupils in grades seven through twelve in each school year	This amount would depend on the number of students, staff and course offerings at a particular school.
3301-35-08 (B)	Pupil attendance shall be reported to facilitate administration of laws relating to compulsory education and the employment of minors. The report shall include the name, age, and place of residence of each pupil under age 18. The report shall be made to the treasurer of the board of education of the local school district in which the pupil resides.	Free by email or no more than the cost of postage and printing
3301-35-08 (D)	Each non-chartered, non-tax supported school shall have courses of study for the following subjects: Language arts, Geography, the history of the United States and Ohio, and national, state, and local government, mathematics, science, health, physical education, the fine arts (including music), first aid, safety, and fire prevention, other subjects as prescribed by the non-chartered, non-tax supported school.	This amount would depend on the number of students, staff and course offerings at a particular school.
3301-35-08 (E)	Each non-chartered, non-tax supported school shall follow regular procedures for promotion from grade to grade of pupils who have met the school's educational requirements.	This amount would depend on the number of students, staff and course offerings at a particular school.
3301-35-08 (F)	Each non-chartered, non-tax supported school shall comply with state and local health, fire, and safety laws.	Required under Sections 3737.73 and 3707.26

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Rule	Requirement	Cost
3301-35-09 (A) (1) and (2)	A nonpublic school shall assure that students are provided a general education of high quality by either: (1) Being accredited by an association whose standards have been reviewed by the state superintendent's advisory committee on chartered nonpublic schools and approved by the state board of education; or (2) Showing compliance with rules 3301-35-01 to 3301-35-07 of the Administrative Code (with some exceptions)	Some accrediting associations may charge a membership fee. There is not a fee to apply for a charter through the department by demonstrating compliance with the operating standards. Compliance would depend on the number of students, staff and course offerings at a particular school.
3301-35-09 (C)	Each chartered nonpublic school constituency group including the Association of Christian Schools International; the Catholic Conference of Ohio; the Government Affairs Committee of Ohio Jewish Communities, Inc.; the Lutheran Schools of Ohio; the Ohio Association of Independent Schools; and the Seventh Day Adventist Schools, Ohio Conference shall have a representative on the superintendent of public instruction's advisory committee on chartered nonpublic schools	Depends on school staff salary, travel and frequency of meetings. Currently they meet quarterly.
3301-35-10 (A) (1)	The superintendent shall contact the department about beginning a school and shall attend the "beginning a chartered nonpublic school" workshop conducted by the department of education	Depends on school staff salary.
3301-35-10 (A) (3)	The superintendent shall submit to the department a plan for meeting operating standards.	Depends on school staff salary and cost of printing and postage.

Rule	Requirement	Cost
3301-35-10 (B)	A change in location or ownership of any school shall comply with section 3313.48 of the Revised Code and be reported to the department.	Compliance with 3313.48 is required in the Revised Code. Reporting location or ownership change to the department is in rule. Reporting to the department would include the cost of printing and postage.

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

The agency justifies the impact because these rules set a minimum standard for the safety, health and education of students in certain schools, and for the performance of those functions that are critical to students and parents at a school. The application of some of these rules to nonpublic schools is justified by providing parents and students with notice concerning important policies of their school and with information about the performance of their school. In addition, many of the requirements contained in the rules would be accomplished as a routine matter of business in schools.

Regulatory Flexibility

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

Exemptions to the Operating Standards, which exist to ensure the health, safety, and education of students, are not provided based on the size of a school, but a waiver process is available for all schools. Certain provisions of the operating standards do not apply to chartered nonpublic schools, and very few apply to nonchartered, nonpublic schools.

16. 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?

These rules do not carry with them any provisions for fines or penalties for the schools.

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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Department staff is available to all of the schools, regardless of size, to answer questions and provide guidance in meeting the requirements of the rules.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov