

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-14-15

Rule Type: Amendment

Rule Title/Tagline: Conflicts of interest.

Agency Name: Department of Aging

Division:

Address: 30 E Broad St. 22nd Floor Columbus OH 43215-3414

Contact: Tom Simmons **Phone:** 614-202-7971

Email: tsimmons@age.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 11/16/2023
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 9 - 134 - McColley, Roegner
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 121.07, 173.01, 173.02, 173.16; 42 U.S.C. 3025, 3058g; 45 C.F.R. 1321.11, 1324.11, 1324.13, 1324.15
5. **What statute(s) does the rule implement or amplify?** 173.16; 42 U.S.C. 3058g; 45 C.F.R. 1321.11, 1324.11, 1324.21
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule exists to establish conflict-of-interest standards for the ombudsman program.

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule will establish conflict-of-interest standards for the ombudsman program.

ODA proposes to amend this rule to achieve the following:

1. Reduce the unnecessary use of the regulatory-restriction word "shall" in this rule to comply with R.C. §121.951.
2. Replace the examples of conflicts of interest under paragraph (B) of this rule with a definition of "conflict of interest" under paragraph (A) of this rule.
3. Use "governing board" throughout this rule instead of "policy board."
4. Insert "remedied" before "conflict of interest" in paragraph (C) of this rule to clarify that the paragraph lists the actions that a person with a remedied conflict of interest is not qualified to provide. [Paragraph (B) of this rule indicates that a person with an unremedied conflict of interest does not qualify to be an employee, certified representative, program director, or governing board member.]
5. Make additional non-substantive improvements to this rule, including replacing the passive voice with the active voice to comply with §5.8.6 of the Rule Drafting Manual.

9. Does the rule incorporate material by reference? No

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

\$0.00

Amending this rule will not affect the biennial budget that the Ohio General Assembly established for the ombudsman program in House Bill 33 (135th G.A.).

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

This rule indicates that a person with an unremedied conflict of interest does not qualify to be a certified ombudsman representative or related position. This rule also lists the actions that a certified ombudsman representative with a remedied conflict of interest is not qualified to provide.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? No

18. Does this rule have an adverse impact on business? No

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

This rule does not regulate any Ohio business.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

- A. How many new regulatory restrictions do you propose adding to this rule? 0

- B. How many existing regulatory restrictions do you propose removing from this rule? 15

1. (A)(2) ...ensure the conflict SHALL NOT adversely influence the activities of the representative on behalf of the office.

2. (C) Actions prohibited by someone holding a conflict of interest SHALL include,....

3. (C) ...but SHALL NOT be limited to,

4. (C) Absent a waiver granted by the SLTCO, no representative of the office SHALL be permitted to....

5. (D) The screen SHALL be applied initially and annually thereafter.

6. (D) ...and SHALL be subject to program review.

7. (E) ...and SHALL determine whether or not to allow the proposed remedy.

8. (E) [unnumbered] ...and SHALL reveal the nature, extent, and potential impact of the conflict of interest,...

9. (E) [unnumbered] ...and SHALL be a remedy that neutralizes the conflict of interest.

10. (E)(5) That any policy board members having a conflict of interest in their capacity as board members SHALL declare any conflict of interest regarding a complaint or advocacy issue....
 11. (E)(5) ...and SHALL excuse themselves from deliberations and voting on the issue.
 12. (F) A waiver request SHALL reveal the nature, extent, and potential impact of the conflict of interest,....
 13. (F) ...and SHALL request to determine whether sufficient circumstances exist to eliminate a conflict of interest.
 14. (G) No representatives of the office SHALL be required or permitted to hold positions or perform duties that would constitute a conflict of interest.
 15. (H) Deliberate failure to disclose any conflict of interest or any prohibition SHALL be sufficient grounds for the removal of the candidate from the professional development program, the decertification of the representative, or the withdrawal of the designation of the regional program involved.
- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable