

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-14-16

Rule Type: Amendment

Rule Title/Tagline: Complaint-handling protocol.

Agency Name: Department of Aging

Division:

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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; 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? 173.15, 173.19, 173.20, 173.22; 42 U.S.C. 3058g; 45 C.F.R. 1321.11, 1321.19
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 complaint-handling protocol for certified ombudsman representatives.

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

This rule establishes complaint-handling protocol for certified ombudsman representatives.

ODA proposes to amend this rule to achieve the following:

1. Remove the unnecessary use of the regulatory-restriction words "shall" and "may not" from this rule to comply with R.C. §121.951.
2. Indicate in paragraph (A)(1) of this rule that the mode of communication in which a complaint is received is deemed consent to communicate with the complainant through that mode of communication.
3. Separate the last sentence of paragraph (A)(2) of this rule into a paragraph of its own.
4. Separate the standards for handling a complaint that indicates probable physical harm from paragraph (A)(5) of this rule to a paragraph of its own.
5. Use "business day" instead of "day." [See also the definition of "business day" in rule 173-14-01 of the Administrative Code.]
6. Replace uses of "face-to-face" with the more inclusive adjective "in-person."
7. Indicate that direct contact may be made by video conference or email, which are not currently mentioned in this rule.
8. Deleting paragraph (B)(1)(m) of this rule because "observing a facility" is included in "an on-site visit" under paragraph (B)(1)(b) of this rule.
9. Make additional non-substantive improvements to this rule, including reducing use of the passive 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 regulates only the ombudsman program itself. It does not create a cost of compliance to any person or organization outside of the ombudsman program.

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? 13**

1. [introductory] ...representatives SHALL open a case and attempt to resolve all complex complaints according to the following protocol:

2. (A)(1) A complaint generated by the office itself SHALL be considered a received complaint.

3. (A)(1) [unnumbered] ...that electronic mail MAY NOT be a secure mode for sharing confidential information....

4. (A)(1) [unnumbered] ...and SHALL document the individual's consent to use electronic mail.

5. (A)(2) The representative SHALL also....

6. (A)(4) [now (A)(5)] The response time SHALL be commensurate with the....
 7. (A)(4) [now (A)(5)] In all other cases, the program SHALL respond as appropriate to the complaint.
 8. (B)(1) The principle steps in an investigation SHALL include,....
 9. (G)(1) The policies and procedures SHALL....
 10. (G)(1) ...and SHALL...
 11. (G)(1) All authorized personnel SHALL treat records in a confidential manner.
 12. (G)(1) Regional program policies SHALL be consistent with paragraph (B)(6) (d) of rule 173-14-22 of the Administrative Code.
 13. (G)(3) Representatives SHALL NOT reveal identifying information....
- 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