

**Rule Summary and Fiscal Analysis (Part A)****Department of Job and Family Services**

Agency Name

**Division of Social Services**

Division

**Michael Lynch**

Contact

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**5101:2-49-02**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Adoption assistance eligibility criteria.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5101.141**

5. Statute(s) the rule, as filed, amplifies or implements: **5101.11**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is replacing rescinded rules 5101:2-49-02 and 5101:2-49-02.1, which are both proposed to be rescinded because of the five-year review. The rule is being updated to clearly state the eligibility requirements for the adoption assistance program.

7. If the rule is an AMENDMENT, then summarize the changes and the content

of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule contains the eligibility requirements for the adoption assistance program. As a result of the Partner's for Ohio's Families (PFOF) Rule Review Initiative, changes have been made to reflect consistency and clarity in language and to correct the eligibility requirements for the adoption assistance program.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one or more references to the Social Security Act. This question is not applicable to those references in this rule because such references are exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(B)(2).

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the inner-web at <http://innerapp.odjfs.state.oh.us/forms/inner.asp> or on the inter-net at <http://www.odjfs.state.oh.us/forms/inter.asp> in accordance with RC 121.75(E).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not Applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

No impact on current budget.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

No new costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

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**

## ADOPTION ASSISTANCE AGREEMENT

## ASSISTANCE AGREEMENT

The following assistance agreement, hereinafter called "the agreement" has been entered into by and between hereinafter called "agency," and the adoptive/adopting parent(s), hereinafter called the "adoptive parent(s)," residing at .

This is an:  Initial Agreement  Amended Agreement Effective (MM/YY)

## ARTICLE I: GENERAL PROVISIONS

1. The adoptive parent(s) represents that he/she/they (*please check one below*):
  1.  Intend to adopt a child now under the permanent custody; (Agency Name) OR
  2.  Have adopted a child formerly under the permanent custody of the (Agency Name)
2. The adopted name of such child is (Child's Name)
3. Adoption assistance may begin no earlier than the date the child is placed for adoption. The adoption assistance agreement must be signed by the adoptive parent(s) and the agency prior to the final decree of adoption, unless the child is determined eligible for adoption assistance after a final decree of adoption as the result of an appeal through the state hearing system.
4. The initial adoption assistance agreement or any that is subsequently amended shall remain in effect regardless of the county or state in which the adoptive parent(s) and the adoptive child are residents.
5. The agreement remains in effect as long as the adoptive parent(s) continues to be legally responsible for the child's care and **continues to provide support for the child through the month of the child's eighteenth birthday**, or 21 years of age if the child has a mental or physical disability.
6. The adoption assistance payment shall be paid to the adoptive parent(s) to assist the adoptive parent(s) in incorporating the child into the adoptive family and meeting any ongoing needs of the adoptive child. The adoption assistance payment is not restricted to meeting the daily support of the child, but may be used or put aside to fund any other needs of the child, including such services as education.
7. The agreement may be amended or terminated at any time by the mutual consent of the adoptive parent(s) and the agency.
8. Both the adoptive parent(s) and agency are legally bound by this agreement.

## ARTICLE II : OBLIGATIONS OF ADOPTIVE PARENTS

1. The adoptive parent(s) will
  - Notify the agency within fifteen days of a change if they are no longer legally responsible for the child's care, no longer has providing support to meet the child's needs, the child emancipated, or they move.
  - Comply with any interstate requirements for adoption assistance in the event that the family moves to another state.
  - Notify the PCSA if health care insurance coverage is made available to the child and submit the [JFS 06612](#) "Health Insurance Information Sheet" (Rev. 5/2001).
  - Provide documentation that the child is enrolled in school or is incapable of attending school full-time by completing and returning the JFS 1451-B "Title IV-E Adoption Assistance annual assurance of legal responsibility, school attendance and eligibility for continued Medicaid Coverage" (Rev. 1/2014).

**ARTICLE III: OBLIGATION OF THE AGENCY ADMINISTRATION**

1. The agency will notify the adoptive parent(s) of changes in agency, state, or federal policy that have a potential affect on the amount of the adoption assistance payment.
2. The agency will verify annually the child's continuing eligibility for adoption assistance. The criteria for continuing eligibility are:
  - The adoptive parent(s) continues to be legally responsible for the child's care;
  - The adoptive parent(s) continues to provide support for the child;The child is under 18 years of age, or 21 years of age if the child has a mental or physical disability.

**ARTICLE IV: ADOPTION ASSISTANCE PAYMENT**

1. The agency has provided the adoptive parent(s) with complete information about the child's family background and medical history.
2. The agency has discussed the child's existing and anticipated emotional, medical, mental, developmental or physical problems in light of the child's family background and medical history.
3. The agency and the adoptive parent(s) have had an extensive discussion about the child's present and future service needs and the adoptive parent's/parents' ability to incorporate the child into the adoptive family and to meet the child's needs.
4. The agency has presented the adoptive parent(s) with complete information about the Title IV-E adoption assistance program and other state and federal adoption assistance programs of potential relevance to the child and the adoptive family.
5. Adoption assistance payments in the amount of \$            per month will be provided on behalf of (child's adoptive name) .

**ARTICLE V: MEDICAL CARE**

1. The child is eligible for Medicaid benefits provided under Title XIX of the Social Security Act for as long as the agreement is in effect.
2. The child is eligible for Medicaid benefits in the state where he or she resides.

**ARTICLE VI: TITLE XX SOCIAL SERVICES AND OTHER SERVICES**

1. The child is eligible for Title XX funded social services as long as the agreement is in effect.
2. The child is eligible for Title XX funded social services in the state in which he/she resides. If a needed service(s) specified in the adoption assistance agreement is not available in the new state of residence, the state making the original adoption assistance payments remains financially responsible for providing the specified service(s).
3. If the adoptive child moves to another Ohio county, the child will be provided with Title XX funded social services in the county where the child resides. If any of the Title XX funded social services specified in the adoption assistance agreement are not available in the county where the child resides, the county which entered into the adoption assistance agreement shall be responsible for providing/securing those services. Nothing shall prohibit the adoptive parent(s) from applying for Title XX funded social services in the county of residence, even if the services are not already specified in the adoption assistance agreement.
4. The child will be provided the following Title XX funded social services.

5. The agency shall provide or secure funding for the following services, whether or not they are available through Title XX.

**ARTICLE VII: TERMINATION**

1. The agreement is subject to termination when the child reaches the age of 18, unless the child has a mental or physical disability. If the child has a mental or physical disability, the agreement may continue until the child reaches the age of 21 pursuant to 5101:2-49-04.
2. The agreement is subject to termination if the agency determines that the adoptive parent(s) is no longer legally responsible for the child's care, no longer providing support to meet the child's needs, or child emancipates.

**ARTICLE VIII: APPEAL**

1. The adoptive parent(s) may appeal any agency decision to deny, reduce or terminate adoption assistance or to deny the amount of adoption assistance payment requested by the adoptive parent(s).
2. The agency must inform the adoptive parent(s) in writing of any decision to deny, reduce, or terminate adoption assistance or to deny the amount of the adoption assistance payment requested by the adoptive parent(s). The notice of denial must inform the adoptive parent(s) of the right to appeal through a state hearing as well as the procedure for requesting a state hearing.
3. The adoptive parent(s) may also appeal through a request for a state hearing in any case in which the agency fails to inform the adoptive parent(s) about potential financial, medical, or service benefits that may be available to the child through the Title IV-E adoption assistance program.

**SIGNATURES**

Adoptive Mother's Signature	Date (mm/dd/yyyy)
Adoptive Father's Signature	Date (mm/dd/yyyy)
Authorized Agency Representative's Signature	Date (mm/dd/yyyy)

Ohio Department of Job and Family Services  
**PERMANENT SURRENDER OF CHILD**

I, _____ am _____ years old and am the Parent/Guardian of _____			
<small>full name</small>		<small>child's name</small>	
born on _____ in _____, _____, _____			
<small>date of birth</small>	<small>city of birth</small>	<small>county of birth</small>	<small>state of birth</small>
who currently lives at _____ sign this permanent surrender			
<small>parent's street address/city /state</small>			
as the child's <input type="checkbox"/> mother, <input type="checkbox"/> father, <input type="checkbox"/> putative father, <input type="checkbox"/> guardian, and hereby request _____			
<small>agency name</small>			
to take permanent custody and control of the child. I am unable to care for said child for the following reasons:			
The Assessor has provided the following counseling and discussed alternatives to the surrender: _____			
Date on which this was provided: _____ Name of Assessor: _____			
I agree and understand that under Ohio law, signing this document means:			
1. All my rights as a parent to the above named child will end. This includes, but is not limited to, all rights to visitation, communication, support, religious affiliation and the right to consent to the child's adoption.			
2. The Agency shall have permanent custody of the child and shall have the right to place the child in any adoptive home or other substitute care settings it finds in the child's best interest (Ohio Revised Code Sections 3107.01 and 3107.06).			
This permanent surrender was taken at _____ <input type="checkbox"/> AM <input type="checkbox"/> PM, on the _____ of _____, 20 _____ in			
<small>time</small>		<small>day</small>	<small>month</small>
<small>year</small>			
the following location: _____			
I have read this permanent surrender or it was read to me before I signed it. I was given the opportunity to ask questions concerning this permanent surrender and those questions were fully answered to my satisfaction. I understand and agree to the terms of this permanent surrender of my child. I am signing this permanent surrender of my child voluntarily and at least 72 hours after the birth of the child.			
Witness	Date	Signature of Parent/Guardian	Date
By my signature below, I _____ by virtue of my authority as _____ of _____,			
<small>agency representative's name</small>		<small>agency representative's title</small>	<small>agency name</small>
which is an agency duly authorized pursuant to Ohio Revised Code Sections 5103.03 and 5153.16, to accept permanent custody of			
children by surrender, hereby accept permanent custody of _____ from _____.			
<small>child's name</small>		<small>parent's name</small>	
Witness	Date	Signature of Authorized Agency Representative	Date
Under Ohio law, Ohio Revised Code Section 5103.15(B), approval of the juvenile court is required if this agreement is entered into by a public children service agency or is executed by a private child placing agency for a child six months of age or older.			
By my signature, below, I hereby approve the transfer of permanent custody of (child's name) _____			
by the child's parent/guardian to the (agency name) _____			
I find that continuation in the home is contrary to the best interest of the child and that the placement is in the best interest of the child.			
Name of Court		Signature of Judge	Date
This has been duly recorded on page number _____ of volume number _____ of the records of this court.			



Ohio Department of Job and Family Services  
**PERMANENT SURRENDER OF CHILD**

Instructions for Completion of ODJFS FORM 01666

Enter all information as indicated on the form. These instructions are meant to assist you in gathering and entering the pertinent information to insure the proper execution of a permanent surrender.

Full name	Enter the full name of the parent/guardian who is making the permanent surrender.	Time	Enter the time the permanent surrender was signed by the parent/guardian.
Age	Enter the age of the parent/guardian who is making the permanent surrender.	Day	Enter the day the permanent surrender was signed by the parent/guardian.
Child's name	Enter the full name of the child being surrendered.	Month	Enter the month the permanent surrender was signed by the parent/guardian.
Date of birth	Enter the child's date of birth.	Year	Enter the year the permanent surrender was signed by the parent/guardian.
City of birth	Enter the city in which the child was born.	Location	Enter the location the permanent surrender was signed by the parent/guardian.
County of birth	Enter the county in which the child was born.	Signatures	Each parent/guardian who is a party to the surrender is required to sign and date the surrender document in the presence of a witness. The signature of the witness is required.
State of birth	Enter the state in which the child was born.	Agency representative name	Enter the name of the agency representative.
Parent's street address	Enter the address of the current residence of the parent/guardian.	Agency representative title	Enter the appropriate title of the agency representative.
City	Enter the city of residence of the parent/guardian.	Agency name	Enter the full name of the agency accepting the permanent surrender.
State	Enter the state of residence of the parent/guardian. (NOTE: Check the appropriate categories to identify the legal relationships of the parent/guardian to the child being surrendered.)	Child's name	Enter the full name of the child being surrendered.
Agency name	Enter the full name of the agency accepting the permanent surrender.	Parent's name	Enter the full name of the parent/guardian who is signing the permanent surrender.
	(NOTE: Enter the reasons for the permanent surrender. Be clear and concise.)	Signature	The agency representative signs the permanent surrender in the presence of a witness, who also signs the document. It is dated by both at the time of signatures.
	(NOTE: Identify counseling services, alternative placements discussed, and date(s) of the discussions(s) prior to the permanent surrender.)		

**COURT APPROVAL OF THE "PERMANENT SURRENDER OF CHILD" FORM**

All agreements for permanent surrender involving a public children services agency must be approved by the juvenile court. In addition, children who are six months of age or older, and who are surrendered to private child placing agencies, must be approved by the court. When private child placing agencies accept permanent surrender of a child less than six months of age, for the sole purpose of adoption, approval of the court is not required.

The agency must file a request with the court for approval of the "PERMANENT SURRENDER OF CHILD" form. When an agency requests approval of a permanent surrender, a case plan must accompany the request.

Distribution: One copy to Agency; One copy to Parent; One copy to Court