

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5101:2-53-03

Rule Type: Amendment

Rule Title/Tagline: Determination of Indian status, tribal eligibility and membership.

Agency Name: Department of Job and Family Services

Division: Division of Social Services

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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?** 10/12/2017
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5153.166, 5103.03
5. **What statute(s) does the rule implement or amplify?** 5103.03, 5153.16
6. **What are the reasons for proposing the rule?**

To incorporate federal regulatory changes under 25 CFR 23 relating to the administration and implementation of the Indian Child Welfare Act.

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

OAC 5101:2-53-03, "Determination of Indian status, Tribal eligibility and membership," describes provisions for determining a child's status as an "Indian child". This rule is

being amended to reflect updated language included in the new federal regulations governing ICWA.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code (OAC). 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).

10. **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

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

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Not Applicable

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

Not Applicable

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

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

III. Common Sense Initiative (CSI) Questions

15. Was this rule filed with the Common Sense Initiative Office? Yes

16. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

Private child placing agencies are required to be certified by the State of Ohio.

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? Yes

There are no fines or civil penalties for non-compliance with this rule other than the forfeiture of certification through denial or revocation.

C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

This rule requires the agency to send inquiry to an identified Indian Tribe or the Bureau of Indian Affairs for assistance in determining if a child meets the definition of Indian child and therefore subject to the provisions of ICWA.