CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: OFC- Adoption Falsification

Rule Number(s): 5101:2-33-13

Date: 4/21/15

Rule Type:

X New

Amended

X 5-Year Review

X Rescinded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.

This Business Impact Analysis covers one rule to be rescinded and issued as a new rule of the same number because over half of the rule was rewritten. The following is a brief explanation of the proposed changes:

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OAC rule 5101:2-33-13, entitled "Adoption Administrative Falsification Procedures" is being rescinded and issued as a new rule, retitled "Administrative procedures for falsification in adoption" for grammar and clarity. The rule describes the procedures and timeframes for handling a report of falsification in the adoption homestudy process. The procedures and timeframes were rewritten for clarity of the reader.

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

Rule Number	Statutory Authority
Rule 5101:2-33-13	ORC 5101.35

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.

This rule is not written to implement a federal requirement.

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

This rule does not exceed any federal requirements.

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)?

This rule establishes the process and procedures to take when it is suspected that an adoptive family has falsified information during the homestudy process, or after the homestudy is approved.

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

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe placement of children into adoptive homes.

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.

This rule was presented to several interest groups including the Ohio Association of Child Caring Agencies (OACCA), the Institute for Human Services (IHS), and the public and private coordinator's meetings at the Central Ohio Regional Training Center. Many of these interest groups were part of the Partners for Ohio Families (PFOF) meetings that the Office of Families and Children (OFC) conducted during 2011-2012. The meetings were held in person and also allowed for online input toward rule suggestions and changes. Every rule was discussed. The rule was posted on the Ohio Rule Review website in March 2015, and went through the internal and external clearance process in March and April 2015. One internal comment was made during the clearance process, and that suggestion was incorporated into the rule revision.

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

The rules were reviewed and updated with involvement from OACCA, OAPG, IHS, several public and private agency staff, internal licensing specialists, as well as other policy developers. Language was developed that was agreeable to all. Only one internal comment was made, and it was incorporated into the rule. No external comments were received.

9. **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?**

Not applicable.

10. **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?**

There were no other alternatives considered for these rules as all parties involved in the PFOF, training, and clearance processes were satisfied with rule language outcomes and because the rules are driven by statute.

11. **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.

ODJFS did not consider a performance based initiative, but rather followed statutory language prescribing that the department set minimum standards to ensure the safety and well-being of all children entering foster and adoptive homes.

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

There is no duplication in other rules. The rule in this package was reviewed by internal and external partners, as well as the PFOF Rule Review Board, for duplication and approval. The rule revisions were also reviewed by the internal legal staff at ODJFS prior to the clearance process to ensure they do not duplicate any existing Ohio regulations.

13. 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.

ODJFS licensing specialists and technical assistance specialists monitor agencies to ensure the regulations are applied consistently. PFOF regional teams have also been developed to offer technical assistance and improve consistency statewide. Additional training opportunities are planned for private and public agencies as the effective date of the rule gets closer.

Adverse Impact to Business

14. 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;**
- **b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- **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.

The rules of the Administrative Code in Chapters 5101:2-33 contain administrative requirements for all agencies, both public and private. Requirements must be met to obtain and/or maintain certification.

The adverse impact on the business community involves approximately 128 private agencies:

5101:2-33-13- The adverse impact would be based on the time and resources it takes for an agency worker to collect, complete and forward documentation to the agency administrator regarding the statements or documents that are alleged to be knowingly false and submitted by the adoptive family or applicant(s). This would include the time to review the documentation, investigate the complaint, and submit the written notice to the administrator. The administrator would then be required to notify the family in writing of the allegation, and allow the family to respond to the allegation. If the family responds, the adverse impact would include the time and resources involved in investigating the issue, meeting directly with the adoptive family and other applicable witnesses. Depending on the individual family circumstances and the type of document that was falsified, this may take anywhere from 4 hours to 15 hours. Additional monetary costs would include the time of completing and sending the final investigative report to the family, which may take from 1 to 4 hours.

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

To ensure the safety and well-being of children in permanent adoptive placements, the adverse impact of this rule is necessary. The requirements set forth in this rule provide agencies with a procedure for handling allegations of falsification in the adoption process. This rule also allows families an opportunity to respond to the allegations made against them.

Regulatory Flexibility

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

No, there are no alternative means of compliance.

17. 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?

For these rules there are no fines or civil penalties for non-compliance from ODJFS. If significant noncompliance was discovered then it would be possible for an agency to have their license revoked, resulting in substantial business losses.

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

ODJFS has regional offices with technical assistance specialists and licensing specialists that will be able to assist agencies in completing adoption homestudies and providing required supervision visits and postfinalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules. These rule revisions will be presented with other foster care and adoption rules during the summer of 2015, as the effective dates are nearer.