

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: OFC:FYR Chapter 52 CCN8259

Rule Number(s): 5101:2-52-06, 5101:2-52-08

Date: 2/25/19

Rule Type:

☐ New

☒ Amended

☒ 5-Year Review

☐ Rescinded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.

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OAC rule 5101: 2-52-06, entitled “Requirements applicable to interstate placement of children when the PCPA, PNA, or court is the receiving agency” provides guidance regarding the requirements for private child placing agencies (PCPAs) and courts when they receive a request for placement of a child from another state when the Interstate Compact on the Placement of Children (ICPC) applies. Paragraph (B) was removed for clarity as this paragraph did not pertain to children being placed into Ohio. No substantive changes were made.

OAC rule 5101: 2-52-08, entitled “Interstate placement requirements for Ohio parents, legal guardians, or private entities when placing a child into another state or territory for adoption” provides guidance regarding requirements when a child is to be placed from Ohio into another state for the purposes of adoption. No substantive changes were made.

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

Rule Number	Statutory Authority
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Rule 5101:2-52-06	ORC 5103.23
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Rule 5101:2-52-08	ORC 5103.23
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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.

Rules 5101:2-52-06 and 5101:2-52-08 do not implement a federal regulation, but do implement the Interstate Compact, which is an agreement signed and entered into law by all 50 states, the District of Columbia, and U.S. Virgin Islands and is regulated at the Federal level. The rules are written to enforce the ICPC.

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

These rules are not written as a requirement of Federal Law, nor do they exceed any Federal requirements. Each of the rules follows state statute and complies with the Interstate Compact to ensure the safety and welfare of children being placed across state lines.

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)?

For rule 5101:2-52-06, the purpose of the regulation is to detail and clarify the requirements for Ohio receiving entities to comply with the ICPC as adopted in ORC 5103.23, and comply with the regulations of the ICPC. By informing the receiving entities of the Interstate Compact requirements, it ensures the specified placement resource meets Ohio and Interstate Compact requirements for a safe and appropriate placement, a quicker approval of placement, and regular documentation of supervision once the placement is made.

For rule 5101:2-52-08, the purpose of the regulation is to detail the requirements for complying with the Interstate Compact on the Placement of Children as adopted in ORC 5103.23, and the regulations of the Interstate Compact when attempting to place a child in an adoptive home across state lines.

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

Rules 5101:2-52-06 and 5101:2-52-08 will be measured against the criteria specific to the rule content. Successful outcomes would include ensuring the child's rights are protected as if they were in their own state, all legal requirements are observed, ensuring the child receives services, and ensuring an alternative placement is found for the child should the placement prove not to be in the child's best interest.

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.

The rules were not presented to any stakeholders for this five-year review period since there were no substantive changes made to the rules. The rules went through the clearance process in February 2019. There were no comments made and no additional questions were received.

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

There were no comments received on these rules during the clearance process.

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 because the rules are driven by statute and ICPC regulations and there were no comments received during the clearance process.

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.

For rules 5101:2-52-06 and 5101:2-52-08 ODJFS did not consider a performance based initiative, but rather followed statutory language and the language of the Interstate Compact regulations prescribing the specific processes sending and receiving entities must follow in order to be in compliance with the Interstate Compact. ODJFS also, according to statute, must be satisfied as to the care and supervision given to children being placed into and out of the state. These rules are also specific because the safety of the children being placed, as well as the ICPC itself, dictates a specified process to ensure compliance.

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

There is no duplication as the rules are specific to compliance with the ICPC and no other rules address these specific issues.

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.

There is one Deputy Compact Administrator (DCA) who reviews all processes and documentation required of the private agencies when children are being placed across state lines. The current DCA is Heather Spencer, who can be contacted by phone at (614) 752-1045, or by e-mail at Heather.Spencer@jfs.ohio.gov or Ohio_ICPC_Office@jfs.ohio.gov. The DCA ensures the regulations are applied consistently and offers technical assistance to all affected by the ICPC.

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 Chapter 5101:2-52 contain requirements for foster care and adoption agencies that include public and private agencies. Requirements must be met in order to place children or receive placement of children across state lines.

The adverse impact involves:

5101:2-52-06 – The timeframes involved in sending home studies to the Ohio ICPC office; completing and sending progress reports to the Ohio ICPC office; and completing and sending documentation the family has received all available information on the child to the Ohio ICPC office. There could be postage costs involved if the agency chooses to mail, rather than e-mail, documents.

5101:2-52-08 – The timeframes involved in completing some forms, gathering all required documentation, and sending it to the Ohio ICPC office. There are two ICPC-specific forms and a cover letter the agency must complete. Each of these documents should take no more than a few minutes to complete. There could be postage costs involved if the agency chooses to mail, rather than e-mail, documents.

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

The adverse impact is minimal and the rules are necessary to remain in compliance with the Interstate Compact on the Placement of Children signed by Ohio and put into Ohio statute, as well as to ensure the safety and welfare of children being placed across state lines.

Regulatory Flexibility

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

There is no alternative means of compliance for these rules.

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?

There are no fines or civil penalties for non-compliance other than the possible delay of placements. There is a possibility an agency could be denied recertification or have its license revoked if the agency shows a pattern of non-compliance with these rules.

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

ODJFS has a Deputy Compact Administrator to assist the agency in the entire ICPC process, including assistance with the proper information required by these rules.