



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Mike Lynch Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Ohio Kinship and Adoption Navigator Program

Rule Number(s): 5101:2-40-10

Date of Submission for CSI Review: 06/17/2020

Public Comment Period End Date: _____

Rule Type/Number of Rules:

☒ New/____ rules

☐ No Change/____ rules (FYR? ____)

☐ Amended/____ rules (FYR? ____)

☐ Rescinded/____ rules (FYR? ____)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

___ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.

X b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.

X c. Requires specific expenditures or the report of information as a condition of compliance.

___ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

OAC rule 5101:2-40-10 provides eligibility and program information about Ohio's new adoption and kinship navigator program, which has been developed in response to the Family First Prevention Services Act. This rule describes navigation services that are available to kinship caregivers and families and post-adoptive parents and families.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

ORC sections 5101.851, 5101.853, 5101.854, and 5101.855

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

- 4. 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.

Rule 5101:2-40-04 does not implement a federal requirement. The OhioKAN program has been developed to implement provisions of the federal Family First Prevention Services Act. The OhioKAN program is not required by federal law, but is expected to be included in the Title IV-E program, if the Title IV-E Prevention Services Clearinghouse determines the program to be “well-supported”, “supported”, or “promising” following Ohio’s submission of the program for review by the Clearinghouse.

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

This rule is not required under federal law, however the rule implements an optional program under federal law within the construct of federal provisions.

- 6. 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 has been written to comply with ORC section 5101.855 which requires the adoption of Ohio Administrative Code rules to implement the kinship care navigator program. Additionally, it is anticipated that the implementation of this program will provide better permanency outcomes for youth in kinship care and post adoptive placement.

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

The Ohio Kinship and Adoption Navigator program includes an evaluation component which has been developed and results will be examined by a third party to analyze efficacy.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

- 9. 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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

The development of the Ohio Kinship and Adoption Navigator Program included stakeholders at multiple points during the process. Stakeholders included kinship caregivers; adoptive parents; kinship and adoption professionals and administrators from local public children services agencies and community agencies; leadership of the Ohio Grandparent/Kinship Coalition; professionals who participated in the Enhanced Kinship Navigator Program that was developed in 2009 as part of the Fostering Connections Grant; and professionals administering kinship support services within organizations that participated in the Protect Ohio Waiver Demonstration Grants.

Rule 5101:2-40-10 was written using stakeholder input following the design and implementation process of the Ohio Kinship and Adoption Navigator program.

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

Stakeholders have been included in the development of the OhioKAN program beginning in May of 2019. Stakeholders have had ongoing opportunities to provide input on the needs of the intended recipients of the program, the process for providing services, the intended outcomes of the program, and the best practices for the OhioKAN program. The input provided by stakeholders, and the development process informed the development of rule 5101:2-40-10. The rule was developed to be concise and to allow for more detailed program guidance and instruction to occur within an OhioKAN procedure manual.

Rule 5101:2-40-10 was in clearance for public comment from April 30, 2020 through May 14, 2020. The three comments received during clearance will not substantially change the rule language that was entered in clearance. One comment received noted an appreciation for this program as a necessary service to kinship and post adoptive families. A second comment was simply a suggested edit, which was accepted and incorporated in rule. The third comment expressed concern for utilizing SACWIS to collect information about OhioKAN families, specifically regarding OhioKAN staff's access to sensitive child welfare information. A separate module is being built in SACWIS to collect OhioKAN data and OhioKAN staff will not have security to access child welfare information housed within SACWIS.

11. 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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

12. 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 rule 5101:2-40-10 as all parties involved were satisfied with the rule; and federal law and state Ohio Revised Code do not contemplate alternatives.

13. 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 regulation for OhioKAN. ODJFS has secured a contractor who is developing an evaluation component to support efforts in obtaining a "well-supported", "supported", or "promising" rating by the Title IV-E Prevention Services Clearinghouse.

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

ODJFS policy and legal staff reviewed relevant sections of the Ohio Administrative Code and confirmed that rule 5101:2-40-10 is the only rule that describes program requirements for the Ohio Kinship and Adoption Navigator Program. Therefore, there is no duplication of any other existing Ohio regulation.

15. 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 publishes all rules online as an e-manual. All public and private agencies have access to this publication, which is located at <http://emanuals.jfs.ohio.gov/>.

The structure of the OhioKAN program includes multiple levels of staffing for the provision of program services. OhioKAN is a regionally based program, providing services in 10 regions across the state.

OhioKAN Regional Map

- Region 1
- Region 2
- Region 3
- Region 4
- Region 5
- Region 6
- Region 7
- Region 8
- Region 9
- Region 10



Oversight of the statewide OhioKAN program will be carried out by the OhioKAN Program Director and the ODJFS Project Manager. Each region will have ten navigator positions (housed within community agencies who have been selected as sites), two coaches and one regional director. Each regional director is responsible for understanding the needs specific to their geographic region and planning for the implementation of OhioKAN. The OhioKAN coaches in each region will partner with the navigators assigned to their geographic region, providing coaching, support, and direct assistance as needed.

In addition to the consistent level of staffing, each region will have a Regional Advisory Council, whose purpose it is to support the successful implementation of OhioKAN in their region.

The OhioKAN design and implementation team is developing a procedural manual and training components to provide to all OhioKAN staff across the state. The OhioKAN

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

program will provide opportunities for cross-regional training and education through a Learning Community structure. This structure will allow for continuous learning and support during the implementation of OhioKAN to promote a consistent statewide implementation.

Adverse Impact to Business

16. 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; and

This rule will impact agencies who are selected as sites to house OhioKAN navigators.

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

The nature of adverse impact is expected to be limited to administrative time associated with being a site for the OhioKAN navigator. Sites that are selected to house OhioKAN navigators will receive money to fully fund the full-time employment of the navigator, including benefits that are equivalent to the benefits offered to other agency employees. There will also be funding included to compensate time that is necessary for agency supervision of the navigator. Administrative time spent by the agency outside of the direct supervision of the navigator is not expected to be a significant expenditure.

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.

Since this is a new program that has not yet been implemented, it is not possible to determine how much administrative time a selected site will need to budget for the supervision of the OhioKAN navigator. The salary of the navigator will be negotiated with each selected site, and is expected to average \$60,000 per navigator. The OhioKAN program has budgeted \$5000 for administrative costs for each selected site.

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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

The OhioKAN program will provide a level of service to children and families who are in need of support to maintain the permanency of the placement. Navigation services have been a consistent need voiced by the kinship and post-adoptive population for years. The program defined in this rule will provide an invaluable statewide resource to these families that will be available in all areas across the state of Ohio.

Regulatory Flexibility

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

There are no exemptions and no alternative means of compliance for rule 5101:2-40-10.

18. 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 with this rule. However, substantial non-compliance may result in loss of the OhioKAN agreement to be maintained as a navigator site.

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

ODJFS publishes all rules online as an e-manual. All public and private agencies have access to this publication, which is located at <http://emanuals.jfs.ohio.gov/>.

When sites are selected to house an OhioKAN navigator, they will have access to the OhioKAN regional coaches, the OhioKAN Regional Director, the OhioKAN Program Director, and the ODJFS Project Director for assistance. They will have access to the OhioKAN Procedure Manual and all application OhioKAN training opportunities.