



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information:

Michael Lynch Michael.Lynch@jfs.ohio.gov

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

Amendment of Rules 5101:2-48-08 and 5101:2-48-22

Rule Number(s): 5101:2-48-08 and 5101:2-48-22

Date of Submission for CSI Review: 12/13/2021

Public Comment Period End Date: 12/20/2021

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

X Amended/ 2 rules (FYR? no)

Rescinded/___ rules (FYR?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.

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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.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- 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 5101:2-48-08 entitled Adoption Inquiry provides guidance to agencies on the procedures an agency must take when contacted by a prospective adoptive applicant. Paragraph (C) was amended to change terminology from telephone number to contact information. Paragraph (E) was amended to change terminology from telephone number to contact information.

OAC 5101:2-48-22 entitled Adoptive Family Case Record provides guidance to agencies on preparing and maintaining case records. Paragraph (B)(24) was amended to change terminology from telephone call to contact.

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.**

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Rule Number	Statutory Authority
Rule 5101:2-48-08	ORC 3107.032, 3107.033, 5153.166
Rule 5101:2-48-22	ORC 5101.141, 5103.03, 5153.166

- 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.

Rules 5101:2-48-08 and 5101:2-48-22 do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

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

Rules 5101:2-48-08 and 5101:2-48-22 do not implement a requirement of Federal Law, nor do not exceed any Federal requirements.

- 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)?**

The rules, which are promulgated pursuant to the requirements of the Revised Code, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-08 provides guidance to agencies with procedures to conduct when contacted by persons interested in being adoptive parents.

Rule 5101:2-48-22 provides guidance to agencies on preparing case records. The rule details the forms and documentation that are required to be part of the file.

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

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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.

- 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.

Not applicable.

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.

The Office of Families and Children has been tasked by the Common Sense Initiative (CSI) and the Lieutenant Governor's Office to identify and remove 'outdated modes of communication' terms found in rules. Given the changes are limited to updating outdated modes of communication, normal substantive stakeholder engagement was not performed for these specific changes.

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

The rules did not go through Clearance for stakeholder input, given the nature of the changes.

- 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.

- 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 rules 5101:2-48-08 and 5101:2-48-22 as all parties involved were satisfied with the rules and because the rules are driven by statute.

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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.

No. 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 adoptive homes.

14. 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 adoption agencies and no other rules address these specific issues. ODJFS legal staff reviewed the rules to ensure there is no duplicative regulation in the Administrative Code.

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.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

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

The rules of the Administrative Code in Chapters 5101:2-48 contain requirements that include eighty-eight public and over one hundred private agencies. Requirements must be met to obtain and/or maintain approval.

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

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The adverse impact for 5101:2-48-08 involves timeframes for agencies to enter and maintain information in SACWIS about those inquiring to become adoptive parents. The agency will spend time replying and following up with the persons who made the initial inquiries. Depending on whether the inquirer resides in or out of Ohio there may be additional time spend providing information.

The adverse impact for 5101-2-48-22 involves the timeframes to ensure that the adoption family case record contains all the required forms and documentation. The number of documents for each family would vary from agency to agency based on the path of the adoptive family.

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 expected adverse impact for rule 5101:2-48-08 includes time spent reviewing inquiries, entering information into Ohio SACWIS and responding with information to persons interested in becoming an adoptive parent. These activities are typically conducted by a caseworker/social worker and the time they spent on those activities for each inquiry could range from approximately 1 hour to two hours. The anticipated cost to comply with this rule would depend on the wage for the specific worker. The current average wage for a child welfare caseworker in the State of Ohio is \$28 per hour, according to Salary Expert. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule is between \$28- \$56 per inquiry. There are no additional costs because of the amendments to this rule.

The expected adverse impact for rule 5101:2-48-22 includes time spent maintaining the original or creating a copy of completed forms and documents listed within this rule as case record for each adoptive family. These documents are typically received by a caseworker/social worker while conducting the varies activities involved. The time a caseworker/social worker spends on those activities and receiving documents for each family varies, occur overtime, and could be over several years. Looking at a singular case family record that moves forward with adoption with no barriers could take 1 year and does not include the time it takes to conduct the activity to create the form, only to copy and file the forms or documents for the 25 items listed in the rule spending 15 minutes to file each item. The anticipated cost to comply with this rule would depend on

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the wage for the specific caseworker. The current average wage for a child welfare caseworker in the State of Ohio is \$28 per hour, according to Salary Expert. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would be at a minimum of \$175 that could increase upwards, depending on additional variables. There are no additional costs because of the amendments to this rule.

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

To ensure the safety of children in adoptive placements, the adverse impact of these rules is necessary.

Regulatory Flexibility

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

No, there is no alternative means of compliance.

19. 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 rules 5101:2-48-08 and 5101:2-48-22 there are no fines or civil penalties for non-compliance other than the potential loss of adoption agency certification.

20. 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.