

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-14-14

Rule Type: Rescission

Rule Title/Tagline: Staffing requirements, staff qualifications, and background checks.

Agency Name: Department of Aging

Division:

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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? 8/26/2025

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? 121.07, 173.01, 173.02, 173.16, 173.27; 42 U.S.C. 3025, 3058g; 45 C.F.R. 1321.9, 1324.11, 1324.13, 1324.15

5. What statute(s) does the rule implement or amplify? 109.572, 173.16, 173.27; 42 U.S.C. 3058g; 45 C.F.R. 1324.11

6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No

A. If so, what is the citation to the federal law or rule? Not Applicable

7. What are the reasons for proposing the rule?

This rule exists to establish staffing standards and qualifications, including background checks.

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

This rule establishes staffing standards and qualifications, including background checks.

AGE proposes to rescind this rule and to simultaneously propose to adopt a new rule of the same number in its place to comply with section 4.3.1 of the Legislative Service Commission's Rule Drafting Manual (August, 2025), which requires any rule being amended by approximately more than 50% to be rescinded and replaced with a new rule.

Please review the RSFA for the proposed new rule for information on differences between this rule and the proposed new rule.

9. Does the rule incorporate material by reference? No

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

11. 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

12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This will have no impact on revenues or expenditures.

\$0.00

Rescinding this rule to replace it with a proposed new rule of the same number will not impact the biennial budget that the Ohio General Assembly established for AGE in House Bill 96 (136th GA).

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

This rule does not create a cost to any person or organization other than an ombudsman and the ombudsman program itself.

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

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

- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

- 17. Was this rule filed with the Common Sense Initiative Office? No**

- 18. Does this rule have an adverse impact on business? No**

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

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? No

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule?

0

B. How many existing regulatory restrictions do you propose removing from this rule? 18

1. (C)(3)(b)(ii)(a): "If the responsible party hired the employee before January 1, 2008, the responsible party SHALL conduct a criminal records check on the employee no later than thirty days after the 2013 anniversary of the employee's date of hire and no later than thirty days after each five-year anniversary."

2. (C)(3)(d)(i): "If an applicant or employee does not provide the responsible party with evidence that he or she has been a resident of Ohio for the five-year period immediately preceding the date the responsible party MUST request a criminal records check...."

3. (C)(3)(d)(i): "...the responsible party SHALL request that BCII obtain criminal records form the FBI as part of the criminal records check."

4. (C)(3)(e): "When an applicant initially applies for a paid ombudsman position, the responsible party SHALL inform the applicant of the following:"

5. (C)(3)(e)(i): "If the responsible party gives the applicant final consideration for hiring into the position, the following SHALL happen:"

6. (C)(3)(e)(i)(a): "The responsible party SHALL review the applicant's status in the databases listed in paragraph (C)(2)(a) of this rule."

7. (C)(3)(e)(i)(b): "Unless the database reviews reveal that the responsible party SHALL NOT hire the applicant..."

8. (C)(3)(e)(i)(b): "...the applicant SHALL provide a set of his or her fingerprints as part of the criminal records check..."

9. (C)(3)(e)(i)(b): "...and the responsible party SHALL conduct a criminal records check."

10. (C)(3)(e)(ii): "If the responsible party hires the applicant, as a condition to retain the position, the responsible party SHALL conduct post-hire database

reviews and criminal records checks according to one of the three schedules listed under paragraph (C)(3)(b)(ii) of this rule."

11. (C)(3)(e)(iii): "If the responsible party intends to charge the applicant the fees divisions (C)(2) and (C)(3) of section 109.572 of the Revised Code authorize the responsible party to charge, the responsible party SHALL inform the applicant of the fees at the time of application."

12. (C)(3)(f)(i): "The responsible party SHALL pay BCII the fees that divisions (C)(2) and (C)(3) of section 109.572 of the Revised Code authorize for each criminal records check."

13. (C)(3)(g): "Forms: Unless the applicant or employee follows the procedures that BCII established in rule 109:5-1-01 of the Administrative Code for providing fingerprints electronically and requesting criminal records electronically, the responsible party SHALL complete the following two tasks:"

14. (C)(3)(g)(i): "The responsible party SHALL provide each applicant or employee with the form(s) that BCII requires in division (C)(1) of section 109.572 of the Revised Code."

15. (C)(3)(g)(ii): "The responsible party SHALL forward the completed fingerprints and forms to BCII for processing."

16. (C)(9)(a): "if the responsible party hired the applicant or retained the employee in good faith and reasonable reliance upon the applicant's or employee's criminal record, the responsible party SHALL NOT be found negligent solely because of its reliance on the criminal record, even if the criminal record is later determined to have been incomplete or inaccurate."

17. (C)(9)(b): "If the responsible party conditionally hired the applicant in good faith and in compliance with paragraph (C)(4) of this rule, the responsible party SHALL NOT be found negligent solely because it hired the applicant before receiving the applicant's criminal record"

18. (C)(9)(c): "If the responsible party in good faith hired an applicant or retained an employee because paragraph (C)(6) of this rule allows the responsible party to hire an applicant or retain an employee with a disqualifying offense on his or her criminal record, the responsible party SHALL NOT be negligent solely because the applicant or employee has been convicted of, or pleaded guilty to, a disqualifying offense."

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable