



Department of
Aging

Ted Strickland, Governor
Barbara E. Riley, Director

NOTICE

As required by section 119.03 of the Revised Code, ODA will conduct a public hearing to obtain comments on ODA's proposed **housekeeping** amendments to rules 173-3-06.1, 173-3-06.6, and 173-38-01 of the Administrative Code. ODA will conduct the public hearing on **January 4, 2011** ODA will conduct the hearing in **Conference Room 10A** of ODA's offices at 50 W. Broad Street, **10th Floor**; Columbus, OH 43215. The hearing will begin at **1:00PM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

INTRODUCTION

ODA is proposing to amend rules 173-3-06.1, 173-3-06.6, and 173-38-01 of the Administrative Code as part of a rule package of "odds and ends" or "housekeeping" amendments ODA wanted to propose before the end of 2010, but that did not fit into any other rule project. In doing so, ODA's goals are to:

1. Amend the rules with the specific amendments stated below.
2. Comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the rule's designated review date.
3. Ensure that ODA continues to write easier-to-read and easier-to-comprehend rules to promote transparency in the agency's regulations by:
 - a. Complying with Chapter 5 of the Legislative Service Commission's "Rule Drafting Manual," as found on http://www.lsc.state.oh.us/rules/rdm06_06.pdf
 - b. Incorporating recommendations from "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. © 2007)

173-3-06.1 Adult day service.

In addition to the goals mentioned in the introduction to this notice, ODA is proposing to:

1. Add, after "Minimum requirements for an ADS" in paragraph (B) of the rule, "in addition to the mandatory clauses under rule 173-3-06 of the Administrative Code." Each provider of an adult day service under a provider agreement (not as a certified provider) is already required to comply with rule 173-3-06 of the Administrative Code. This just makes the matter clear. It also follows the format of more recently-amended rules. (*cf.*, Rule 173-3-06.6 of the Administrative Code.)
2. Replace "ADL" in paragraph (B)(1)(a)(ii) of the rule with "ADS."

173-3-06.6 Transportation service.

In addition to the goals mentioned in the introduction to this notice, ODA is proposing to:

1. Make paragraph (B)(1)(a) of the rule into paragraph (B)(3)(a) of the rule.

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2. Update any references to paragraphs within the rule that are affected by #1.
3. Add, after "employed by" in paragraph (B)(3)(a) of the rule, "or volunteering for." After ODA adopted the current version of the rule on September 2, 2010, a provider asked, "We use trained volunteers who meet all driver specifications for some of our trips. How do they fit into this description, please? There wasn't a conscious effort to exclude trained volunteer drivers was there?" In response, ODA said, "Here are a couple pieces of good news for you: [1] There is not a new prohibition against volunteers that takes effect when the new rule takes effect tomorrow. 'Employed by' in [this] of the rule could mean 'employed by, but not compensated.' The [previous version of the rule] says the same [as the current rule] and ODA has not failed to allow volunteers to drive. In the [current] rule, we merely moved the language to a new location in the rule to conform the rule to the new formatting for rules. [2] To offer clarity, down the road, I'll revise the rule to say, 'Only a driver employed by, or volunteering for, an agency provider...'. In this amended rule, ODA is now revising the rule.

173-38-01 Introduction and definitions.

In addition to the goals mentioned in the introduction to this notice, ODA is proposing to replace the definition of "PAA" with "ODA's designee" has the same meaning as 'PASSPORT administrative agency' in section 173.42 of the Revised Code. The current PASSPORT administrative agencies are the area agencies on aging listed in rule 173-2-04 of the Administrative Code plus 'Catholic Social Services of the Miami Valley.' In other rule proposals previously filed with JCARR, including a rule package that includes rule 173-38-03 of the Administrative Code (a rule affected by rule 173-38-01 of the Administrative Code), ODA changed the usage of "PASSPORT administrative agency" and "PAA" to "ODA's designee." Then, on November 24, 2010, ODA revised rules 173-35-01, 173-37-01, 173-39-01, 173-42-01, and 173-44-04 of the Administrative Code to define "ODA's designee" as proposed for this rule. The proposal for rule 173-38-01 of the Administrative Code, then, just keeps this rule in line with the developments of rules in other rule projects.

Any person may direct written comments or requests for information concerning the proposed actions to Tom Simmons at the Department on or before the date of the hearing by writing to tsimmons@age.state.oh.us.