

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Opportunities for Ohioans with Disabilities (OOD)

Regulation/Package Title: Chapter 3304-1 Rules

Rule Number(s): 3304-1-01; 3304-1-08; 3304-1-11; 3304-1-13

Date: March 7, 2019

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☐ Rescinded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.

3304-1-01 describes the purpose of OOD and its bureaus or divisions. Proposed amendments update information about OOD's division of disability determination.

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3304-1-08 describes the methods OOD utilizes to distribute notice of public hearings. Proposed amendments update RSC (Rehabilitation Services Commission) to OOD to align with the agency's name change and remove outdated information.

3304-1-11 describes accessibility to meetings, conferences, seminars, and OOD offices. Proposed amendments update RSC to OOD to align with the agency's name change.

3304-1-13 describes the deadline for submitting a bill to OOD for payment by vendors. Proposed amendments update RSC to OOD to align with the agency's name change and correct grammatical errors.

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

3304-1-01 – Ohio Revised Code Sections 3304.15 and 3304.16

3304-1-08 – Ohio Revised Code Sections 3304.15 and 3304.16

3304-1-11 – Ohio Revised Code Sections 3304.16

3304-1-13 – Ohio Revised Code Sections 3304.15 and 3304.16

3. Does the regulation implement a federal requirement?

No

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.

No

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

Not applicable

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)?

3304-1-01 notifies the public about the purpose of OOD and the programs that it operates.

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3304-1-08 dictates how OOD will notify individuals outside the agency of the public hearings that it conducts.

3304-1-11 prescribes the accessibility of OOD's offices and the places OOD conducts business for individuals with disabilities, which is a population that OOD directly serves.

3304-1-13 provides timelines for vendors to submit billing ensuring the proper utilization of agency funds.

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

OOD will continue to monitor its' administrative duties, spending, and the facilities it utilizes along with updating the agency's own policy and procedure to ensure compliance and consistency for what is provided for in rule.

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.

OOD sent a request for feedback to a list of over 2,000 vendors and individuals of interest via email which is included with the business impact analysis.

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

OOD received the attached input from a stakeholder with concerns about notification for public hearings, specifically rule 3304-1-8. This feedback was central to provider notification. In response, OOD added additional sections to the rule which details for notification for providers, or any other individuals, who have opted-in to receiving public hearing notices on OOD's website. The ability to opt-in for notification has been publically available for a number of years on the portion of OOD's website labeled "Notice of Public Hearing."

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?

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No scientific data was utilized. The rules follow statutory provision in R.C. Chapter 3304 and OOD has been establishing rules since 1978 and those rules have undergone revisions and additions as appropriate.

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?

No other regulations were considered as these fall under OOD's statutory authority and suit the administrative needs of the agency.

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.*

No, these rules promote administrative transparency and affect OOD's internal process.

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

OOD is the only Ohio agency regulating in this area. All statutes and rules governing OOD were reviewed to ensure there are no duplications.

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.

OOD will be bound by the rules just as any of those who might be regulated are bound. These are long standing rules, but suggestions may be submitted internally or externally which may be brought to OOD's attention. The purpose of these rules is to provide administrative transparency and to provide a consistent procedure for OOD payment authorizations.

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;

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There are no anticipated costs associated with these rules.

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

There will be no adverse impact. 3304-1-01 is informational in nature, 3304-1-08 and 3304-1-11 regulate the agency, and 3304-1-13 provides guidance for vendors to ensure timely submission for payments.

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.

These rules do not impose any adverse impact.

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

These rules do not impose any adverse impact on the regulated business community.

Regulatory Flexibility

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

These rules do not require compliance from businesses.

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?

These rules are ministerial and therefore there will not be violation of these rules by the outside industry.

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

These rules do not impose duties on small businesses.

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Purpose of the opportunities for Ohioans with disabilities agency.

The opportunities for Ohioans with disabilities agency ("OOD") is the sole state agency designated to administer the plan under the Rehabilitation Act of 1973, 87 Stat. 355, 29 U.S.C. 701. Section 221(a) and 1633 of the Social Security Act as amended provides that disability determinations will be made by the State unless notified by the Commissioner in writing of otherwise. Any reference in ~~section~~divisions 3304 and ~~division~~ 3304:1 of the Administrative Code to the Ohio rehabilitation services commission (RSC) shall now be a reference to opportunities for Ohioans with disabilities agency (OOD). OOD is composed, in part, of two bureaus and one division:

- (A) The bureau of vocational rehabilitation ("BVR") provides vocational rehabilitation services to persons with disabilities other than visual.
- (B) The bureau of services for the visually impaired ("BSVI") provides vocational rehabilitation services to persons who are legally blind, and to persons who are visually impaired.
- (C) The division of disability determination ("DDD") makes determinations on all claims for social security disability insurance benefits and supplemental security income payments based on law, regulations, and written guidelines issued by the Social Security Administration.

3304-1-08

Method of notice for public hearings.

- (A) RSCOOD shall conduct a public hearing for all administrative rules filed in compliance with Chapter 119. of the Revised Code.
- (B) At least thirty days before the public hearing, RSCOOD shall prepare a notice of public hearing, which includes all of the following:
- (1) A statement that it is RSC'sOOD's intention to propose, amend, or rescind rules.
 - (2) The date, time, and placelocation of the public hearing.
 - (3) A general statement of the subject matter to which the proposed rule(s), amendment(s), or rescission(s) relate.
 - (4) The reason for proposing, amending, or rescinding the rule(s).
 - (5) A statement that the rule(s) shall be available for review, free of charge, at the office of the RSCOOD executive director.
 - (6) A statement that the notice of the public hearing and/or the full text(s) of the rule(s) is available from the office of the RSCOOD executive director to any person who requests it and pays a fee not to exceed the cost of copying and mailing.
 - (7) A statement that the public hearing shall be conducted in accordance with Chapter 119. of the Revised Code.
- ~~(C) At least thirty days before all public hearings, except for those relating to Chapter 3304:1-21 of the Administrative Code, RSC shall mail, by first class postal mail or electronic mail, the notice of public hearing to:~~
- ~~(1) The RSC consumer advisory council liaisons; and~~
 - ~~(2) The executive secretary of the Ohio governor's council on people with disabilities.~~
- ~~(D) At least thirty days before all public hearings for an administrative rule, which relates to the group's area of interest, RSC shall mail, by first class postal mail or electronic mail, the notice of public hearing to:~~
- ~~(1) The president and executive director of the Ohio association of rehabilitation facilities;~~

- ~~(2) The board of the Ohio vendors representative committee; and~~
- ~~(3) The president of Ohio goodwill association.~~
- ~~(E) The members of the committees and councils listed in paragraphs (C) and (D) of this rule shall be requested to inform RSC of the mail method (postal or electronic) by which they prefer to receive the notice of public hearing.~~
- ~~(F) The members of the committees and councils listed in paragraphs (C) and (D) of this rule shall be requested to notify the groups they represent about the public hearing.~~
- ~~(G)(C) The~~ At least thirty days before the public hearing, the notice of public hearing shall: ~~be posted~~
- (1) Be posted on the RSCOOD website at ~~http://rsc.ohio.gov/~~<http://ood.ohio.gov/>;
- (2) Be sent by mailing electronically or otherwise to affected providers or other interested parties who have opted-in to receive notices from OOD through the Administrative Rules mailbox at OOD.AdministrativeRules@ood.ohio.gov; and
- (3) Be sent by mailing electronically or otherwise to each member of the State Rehabilitation Council, also called the Opportunities for Ohioans with Disabilities Council.
- ~~(H)(D)~~ At least thirty days before the public hearing, RSCOOD shall submit the notice of public hearing to the legislative service commission for publication in the register of Ohio.

*** DRAFT - NOT YET LED ***

3304-1-11 Accessibility to meetings, conferences, and seminars; and RSCOOD offices.

- (A) All meetings, conferences, and seminars sponsored by RSCOOD shall be held in buildings that are in compliance with accessibility standards established by the Americans with Disabilities Act of 1990 and Ohio law, rules and code.
- (B) All announcements for meetings, conferences, and seminars shall include a notice indicating that services shall be made available to sensory-impaired persons attending the meeting, if requested within specified timeframes in the notice.

3304-1-13

Deadline for submitting a bill to RSCOOD for payment.

When RSCOOD purchases a good or service from any vendor or service provider, the vendor or service provider shall submit the bill to RSCOOD within ninety days of RSC'sOOD's acceptance of the good or service or within ninety days of the date RSCOOD becomes aware of a bill being due. If the vendor or service provider ~~can~~ not~~cannot~~ submit the bill within ninety days, the vendor or service provider may request an extension indicating the reason for needing an extension and the amount of time needed. The request for an extension must be made in writing to the RSCOOD executive director or his designee at least thirty days before the bill is due. If the bill is not submitted to RSCOOD within ninety days of acceptance of the good or service or if a written extension is not requested, RSCOOD may not pay the bill. When RSCOOD asks a vendor to bill a third party before billing RSCOOD, that vendor shall submit the bill within ninety days of receiving payment from the third party.

Blair, Emily

To: Burns, Jay
Subject: RE: Courtesy Copy: Proposed OOD Administrative Rule Changes

From: Opportunities for Ohioans with Disabilities [<mailto:ood.ohio@public.govdelivery.com>]

Sent: Tuesday, December 11, 2018 9:56 AM

To: Kimbell, Renee <renee.kimbell@ood.ohio.gov>; Foster, Donna <donna.foster@ood.ohio.gov>; Marchi, Shirley <shirley.marchi@ood.ohio.gov>; Prosser, Pam <Pam.Prosser@ood.ohio.gov>; Blusiewicz, Lindsay <Lindsay.Blusiewicz@ood.ohio.gov>; Burns, Jay <jay.burns@ood.ohio.gov>; Gears, James <james.gears@ood.ohio.gov>

Subject: Courtesy Copy: Proposed OOD Administrative Rule Changes

This is a courtesy copy of an email bulletin sent by Jay Burns.

This bulletin was sent to the following groups of people:

Subscribers of No Contract Providers or Vocational Rehabilitation (VR) Providers (2703 recipients)

You are receiving this email because you have been identified as someone who has an interest in the Opportunities for Ohioans with Disabilities' (OOD) administrative rules.

OOD has rules that provide parameters for agency operations and for its programs. At minimum, those rules are to be reviewed every five years.

OOD personnel have reviewed the following rules: 3304-1-01 (Purpose of the Opportunities for Ohioans with Disabilities agency); 3304-1-08 (Method of notice for public hearings); 3304-1-11 (Accessibility to meeting conferences, and seminars; and OOD offices); 3304-1-13 (Deadline for submitting a bill to OOD for payment). The goal this year was to update the rules to align with the agency name change and to update any outdated information.

The rules that are being modified may be found on OOD's website at the following link: <https://ood.ohio.gov/Information/Proposed-Rule-Changes> under the "Proposed Rules Changes" heading. Additions to the rules are underlined in blue while deletions are struck through in red.

As someone who might have an interest in these rules you are being asked to look over the proposed changes and provide any feedback you might have.

You may respond by submitting your thoughts in writing via email. Emails may be sent to OOD.AdministrativeRules@ood.ohio.gov.

Due to the nature of these proceedings, we will not be able to accept additional feedback after December 30, 2018.

Thank you for your willingness to review the proposed changes and we appreciate your input.

The services described are funded, in part, with federal funds awarded by the U.S. Department of Education (DOE) under the Vocational Rehabilitation (VR), Supported Employment Services, and the Independent Living Services for Older Individuals Who are Blind (OIB) programs. For purposes of the VR program, the federal VR grant paid 78.7% of the total costs of the program. In federal fiscal year (FFY) 2018, the VR agency received \$100,336,097 in federal VR funds. Funds appropriated by the state paid 21.3% of the total costs \$27,155,767 under the VR program.

The Pre-Employment Transition Services provided under the VR program, described, are funded 100% through a grant from the U.S. DOE. For FFY 2018, the total amount of grant funds used for these services is \$15,050,415.

For purposes of the Supported Employment program (youth with a disability program), federal funds paid 100% of the total costs. In FFY 2018, the VR agency received \$303,725 in federal supported employment funds (youth with a disability program).

For purposes of the Supported Employment program, federal funds paid 95% of the total costs. In FFY 2018, the VR agency received \$303,725 in federal Supported Employment funds. State appropriated funds paid 5% \$32,747 of the total costs under the Supported Employment program.

For purposes of the OIB program, federal funds paid 90% of the total costs incurred under the program. In FFY 2018, the agency received \$1,174,400 in federal grant funds for this program. Funds appropriated by the State paid 10% \$130,489 of the total costs incurred under the OIB program.

The services described are funded, in part, with federal funds awarded by Health and Human Services (HHS) under the independent living (IL) program. For purposes of the federal IL program the federal grant paid 90% of the total costs of the program. In FFY 2018, OOD received \$632,411 in federal IL funds. Funds appropriated by the state paid 10% of the total costs \$70,268 under the IL program.



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From: Emily Turner <emilyturner@goodwillohio.org>
Sent: Thursday, December 27, 2018 12:55 PM
To: OOD Administrative Rules
Subject: Proposed changes to 3304-1-08

The Ohio Association of Goodwill Industries does not support the proposed changes 3304-1-08. The proposal eliminates required notifications and would result in less transparency and awareness of rule changes among stakeholders. OAGI requests OOD retain existing notifications and update the requirements regarding notifications to increase awareness and access to proposed rule changes. Through this rule review process, OOD has an opportunity to include language that will make OOD a leader among state agencies by including language in this rule that ensures all public notices are accessible to individuals who use various technologies to assist with reading and by requiring notification of public hearings be made to agencies with which OOD has inter-agency agreements, thus ensuring better coordination and streamlining of workforce development programs.

We would support the following language:

3304-1-08 Method of notice for public hearings.

(C) At least thirty days before all public hearings, except for those relating to Chapter 3304:1-21 of the Administrative Code, OOD shall mail, by first-class postal mail or electronic mail, the notice of public hearing to the members of the State Rehabilitation Council, also called the Opportunities for Ohioans with Disabilities Council, created per ORC 3304.12.

(D) At least thirty days before all public hearings for an administrative rule, which relates to the group's area of interest, OOD shall mail, by first-class postal mail or electronic mail, the notice of public hearing to:

- (1) The president and executive director of the Ohio Providers Resource Association;
- (2) The president and executive director of the Ohio Association of Goodwill Industries; and
- (3) The Director of any state agency with which OOD has an inter-agency agreement.

(E) In addition to public notice required by paragraph (C) and (D) of this rule, OOD may provide whatever other notice the Director deems reasonably necessary including:

- (1) By mailing electronically or otherwise notice to affected providers;
- (2) By mailing electronically or otherwise notice to affected state provider associations;
- (3) By mailing electronically or otherwise notice to interested parties which have opted-in to OOD newsletters and other OOD electronic mailing distribution lists.

- (F) The members of the committees and councils listed in paragraphs (C) (D) and (E) of this rule shall be requested to inform OOD of the mail method (postal or electronic) by which they prefer to receive the notice of public hearing.
- (G) The members of the committees and councils listed in paragraphs (C) (D) and (E) of this rule shall be requested to notify the groups they represent about the public hearing.
- (H) The notice of public hearing shall be posted on the OOD website at <http://OOD.ohio.gov/>.
- (I) All notices of public hearing shall be provided in a manner that is accessible to individuals who are visually impaired and/or use assistive technology to assist with reading.
- (J) At least thirty days before the public hearing, OOD shall submit the notice of public hearing to the legislative service commission for publication in the register of Ohio.

Thank you for your consideration of these comments.

Emily Turner

--

Emily Turner, Executive Director
Ohio Association of Goodwill Industries
1331 Edgehill Road, Columbus, Ohio 43212
(614) 583-0319 office
(614) 204-4747 mobile

Blair, Emily

To: Pugh, Susan
Subject: RE: schedule time to talk?

From: Emily Turner [<mailto:emilyturner@goodwillohio.org>]
Sent: Thursday, February 14, 2019 11:28 AM
To: Pugh, Susan <susan.pugh@ood.ohio.gov>
Subject: Re: schedule time to talk?

Susan,

Thank you for the revised draft. The changes address our concerns about the pushing the information out to interested parties rather than simply posting it on a website.

Sincerely,

Emily

On Wed, Feb 13, 2019 at 5:27 PM susan.pugh@ood.ohio.gov <susan.pugh@ood.ohio.gov> wrote:

Emily, it was great talking this afternoon. As promised, attached is the current draft of 3304-1-08.

From: Emily Turner [<mailto:emilyturner@goodwillohio.org>]
Sent: Tuesday, February 12, 2019 1:51 PM
To: Pugh, Susan <susan.pugh@ood.ohio.gov>
Subject: schedule time to talk?

Hi Susan,

Sorry I was unable to get back with you yesterday. Hopefully, you received the message I left this morning. Maybe we should schedule a time to talk? Since we are talking policies and rules, I wanted to check in with you on a couple of items in addition to the public notice rule, which I think is what you were calling me to talk about.

On my list are:

- The Informed Choice policy 80-VR-07
- The Job Related Services policy 80-VR-11-14

- The Provider Management policy 80-VR-09
- The fee schedule comments and process
- CIE workgroup

I am pretty open for the rest of this week and then out of town Mon-Thurs next week, but I can find time between conference sessions if we need to schedule something then.

Thanks,

Emily

--

Emily Turner, Executive Director

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