



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:

Michael Lynch Michael.Lynch@jfs.ohio.gov

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

Chapter 5101:2-48 Adoption rule

Rule Number(s): 5101:2-48-19

Date of Submission for CSI Review: 10/20/20

Public Comment Period End Date: 10/27/20

Rule Type/Number of Rules:

- | | |
|--|---|
| ☐ New/___ rules | ☐ No Change/___ rules (FYR? ___) |
| ☒ Amended/ <u>1</u> rules (FYR? <u>yes</u>) | ☐ Rescinded/___ rules (FYR?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 rule 5101:2-48-19, entitled "Sharing and Transferring an Adoptive Homestudy," provides guidance to agencies on how to share homestudies and process the transfer of an adoptive homestudy approval. Paragraph (H)(1)(c) was amended regarding references for prospective adoptive applicants. Paragraph (H)(1)(f) was added to require a search of the national sex offender registry for the adoptive applicant and adult household members. Paragraph (K) was amended to have the information from (K)(1) to be included within the paragraph, then (1) and (2) were removed. This was amended since private agencies have provider access to enter homestudies in SACWIS. Form revision dates were removed throughout the rule.

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.

Rule Number	Statutory Authority
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Rule 5101:2-48-19	3107.033, 5153.166
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- 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 5101:2-48-19 was amended as a result of the passage of the Family First Prevention Services Act (FFPSA). The FFPSA required states to document whether their foster care requirements aligned with federal model standards. Due to Ohio's alignment with the standards, several changes were made to foster care requirements. Because Ohio is required by ORC 3107.033 to align homestudy content between adoption and foster care whenever possible, changes were made to this rule.

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

These rules 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 rule, which is promulgated pursuant to the requirements of the Revised Code, establishes regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes and to comply with Federal and State statute as described in recent legislation found in the Family First Prevention Services Act.

For rule 5101:2-48-19, the purpose of the regulation is to provide guidance regarding how to share adoptive homestudies and process the transfer of an adoptive homestudy approval.

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

The success of this regulation will be measured against the criteria specific to the content in this 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.

No.

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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.

ODJFS has met with Ohio Children's Alliance (OCA), the Public Children Services Association of Ohio (PCSAO), and other representatives from county and private agencies through regional meetings and on several other occasions during the past year to discuss the draft rules. Discussions were held in person, by phone, and through email communication. The groups discussed potential changes, provided feedback and came to conclusions on each rule.

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

The rule went through the external clearance process on September 11, 2020 through September 25, 2020 and there were no comments received.

- 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 rule 5101:2-48-19, as all parties involved were satisfied with the rule and because the rule is driven by statute.

- 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.

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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 rule is specific to adoption agencies and no other rule addresses 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.

ODJFS licensing specialists and technical assistance specialists monitor agencies to ensure the regulations are applied consistently. Partners for Ohio's Families regional teams have also been developed to offer technical assistance and improve consistency statewide.

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**
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**
- 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 rules of the Administrative Code in Chapters 5101:2-48 contain requirements for 122 adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

5101:2-48-19 – The adverse impact would primarily fall on the agency the family wants to transfer their adoption approval to. The exception to this would be the time and resources involved in the sending agency being required to copy the adoption file and send it to the new receiving agency. This cost would depend on the size of the file and the method for sending, as it would lessen the cost to scan and email the file rather than make a paper copy and mail the documents. Depending on the individual family circumstances and the level of experience the assessor has, this may take anywhere from 2 hours to 3 hours. The adverse

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impact for the receiving agency would be the timeframes involved in reviewing the adoption record, interviewing the adoptive family, completing the safety audit of the home, requesting and reviewing new personal references, new criminal background checks, and obtaining the signatures of all applicable parties on the transfer document. Depending on the individual family circumstances and the level of experience the assessor has, this may take anywhere from 5 hours to 8 hours. The criminal records checks would cost approximately \$60 per adult household member, while the other requirements would simply be the time spent completing the tasks.

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 rule 5101:2-48-19 there is no fine or civil penalty for non-compliance other than the potential loss of adoption homestudy approval.

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 post-finalization services. Policy developers are also available to give technical assistance regarding the requirements of these rules.

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