



Common Sense Initiative

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Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

Chapters 5101:2-42 and 5101:2-48- Child Information to Caregivers and Prospective Adoptive Parents

Rule Number(s): 5101:2-42-90, 5101:2-48-15, 5101:2-48-21

Date of Submission for CSI Review: 12/15/20

Public Comment Period End Date: 12/22/20

Rule Type/Number of Rules:

☐ New/___ rules

☐ No Change/___ rules (FYR? ___)

☒ Amended/ 3 rules (FYR? X)

☐ Rescinded/___ rules (FYR?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):

X a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.

X b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.

X 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 5101:2-42-90, entitled "Information to be provided to children, caregivers, school districts and juvenile courts" sets forth the requirements for Public Children Service Agencies and Private Child Placing Agencies in the sharing of information with substitute caregivers, school districts, and juvenile courts. Paragraph (G) was amended to align with requirements set forth in ORC 2151.55 by removing the OAC reference to agency headquarters in another county. Paragraph (H) was amended to align with requirements set forth in ORC 2151.554 by removing the OAC reference to agency headquarters in another county. Paragraph (N) was amended to remove the reference to an amended Individual Child Care Agreement and replaced with the direction to provide a new document. References to form revision dates were also removed throughout the rule.

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OAC rule 5101:2-48-15, entitled "Provision of information to a prospective adoptive parent matched with a specific child" provides guidance to custodial agencies regarding the documentation that is required to be given to a prospective adoptive parent prior to the adoptive placement of a child. There were no substantive changes made to the rule. Minor changes were made to remove form revision dates referenced in the rule and reorganizing paragraphs for the ease of the reader.

OAC rule 5101:2-48-21, entitled "Child study inventory" provides guidance to agencies regarding the collective information about the child to be adopted. Minor changes were made to remove form revision dates referenced in the rule and reorganizing paragraphs for the ease of the reader.

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
5101:2-42-90	ORC 5103.03, 5153.166
5101:2-48-15	ORC 3107.017, 5153.166
5101:2-48-21	ORC 2152.72, 3107.017, 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.

The rules do not implement a Federal requirement.

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

The 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 rules establish regulations for the minimum standards to ensure the safety and well-being of children being placed in substitute care and adoptive placements.

For rule 5101:2-42-90, the purpose of the regulation is to provide necessary, child specific information to prospective care givers, school districts, and juvenile courts each time a child is placed in a substitute care setting.

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For rule 5101:2-48-15, the purpose of regulation is to provide necessary, child specific information to prospective adoptive parents to assist in making an informed decision about a placement.

For rule 5101:2-48-21, the purpose of the regulation is to ensure adoptive parents are provided thorough and accurate information about the child in order to make an informed decision about any potential match.

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

Agencies undergo compliance reviews once every two years as part of the recertification process which includes compliance with the requirements of this rule. Agencies also receive compliance reviews at approximately the one year mark of the two-year certification period.

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.

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 solicited feedback on the rules prior to and during the preclearance process. ODJFS met with the Ohio Children's Alliance (OCA), the Public Children Services Association of Ohio (PCSAO), the Ohio Youth Advisory Board (OHIO YAB) and other representatives from county and private agencies through phone conference calls. The rules were also placed on the preclearance website prior to the formal clearance process. In addition, ODJFS held a workgroup comprised of representatives of stakeholder agencies when developing and amending rule 5101:2-42-90 and the associated form.

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

The feedback and suggestions received from stakeholder engagement prior to clearance were included in the rule. The rules went through the clearance process from October 21, 2020 through November 4, 2020. There were no additional comments provided.

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?

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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 5101:2-42-90, 5101:2-48-15, and 5101:2-48-21 as all parties involved were satisfied with the rules and because the rules are 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.*

Rules 5101:2-42-90, 5101:2-48-15, and 5101:2-48-21 contain specific requirements for providing information to substitute caregivers, school districts, juvenile courts, and potential adoptive parents. In order to ensure the safety and well-being of children and families, a performance-based regulation was not considered.

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

Rules 5101:2-42-90, 5101:2-48-15, and 5101:2-48-21 are the only rules that outline the child specific information that must be shared with potential adoptive families, substitute caregivers, school districts, or juvenile courts prior to a placement. Therefore, there is no duplication of any other existing Ohio regulations.

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.

When the rules are final filed, a transmittal letter will be generated explaining the changes to the rules and the rationale for the changes. ODJFS licensing specialists and technical assistance specialists review 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 Chapter 5101:2-42 contain requirements for children in temporary custody and placed into substitute care by public and private agencies.

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Requirements must be met to obtain and/or maintain certification for PCPAs. There are currently 23 certified private child placing agencies in Ohio.

The rules of the Administrative Code in Chapter 5101:2-48 contain requirements for adoption agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification for PCPAs. There are currently 23 certified private child placing agencies in Ohio.

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

The adverse impact includes specific expenditures and the report of information. The requirements of the rules in this BIA must be met, non-compliance may result in revocation or loss of certification.

The adverse impact of the requirements set forth in rule 5101:2-42-90 include the time required to document and share information as well as time spent completing forms, such as the JFS 01700 Individual Child Care Agreement (ICCA), JFS 01443 Child's Education and Health Information, and JFS 01677 Foster Youth Rights Handbook. The ICCA is required to be completed each time a child is placed in substitute care and each time any information about the child changes. The ICCA outlines the identifying information about the child, including their history, visitation plans, required services, transportation arrangements, goals, special needs, and physical and mental health information summaries. The JFS 01700 is available for agencies to use through the option of a paper form or the electronic version created through the Statewide Automated Child Welfare Information System. The JFS 01443, while not required to be completed by this rule, is required to be provided to the caregiver. The JFS 01677 is provided to agencies at no cost by ODJFS.

The adverse impact of the requirements set forth in rule 5101:2-48-15 include the time required to document and provide information to prospective adoptive parents. Obtaining the information, organizing the documents, and completion of the forms required of this rule would typically be completed by a caseworker/social worker with the time spent varying based on each child and the child's history.

The adverse impact of the requirements set forth in rule 5101:2-48-21 include the time required to obtain the needed information for developing and updating a child study inventory. The time spent may vary by child, depending on age, background, and the information known about each child in the agency's permanent custody.

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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 5101:2-42-90 includes, obtaining the information, organizing the documents, and completion of the forms required of this rule which would typically be completed by a caseworker/social worker. The time spent would vary based on each child and the child’s history. The time spent could range from approximately 30 minutes to several hours. The anticipated cost to comply with this rule would depend on the wage for the specific worker as well as the availability and accessibility of the information for each child. The current average wage for a social worker in the State of Ohio is \$22 per hour, according to Zip Recruiter. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would range from \$11-\$110, depending on administrative and staffing variables. There is no additional cost as a result of the amendments to this rule.

The expected adverse impact for rule 5101:2-48-15 includes the time spent obtaining information and could range from approximately 30 minutes to several hours. The anticipated cost to comply with this rule would depend on the wage for the specific worker as well as the availability and accessibility of the information for each child. The current average wage for a social worker in the State of Ohio is \$22 per hour, according to Zip Recruiter. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would range from \$11-\$110, depending on administrative and staffing variables. There is no additional cost as a result of the amendments to this rule.

The anticipated cost to comply with 5101:2-48-21 would depend on the wage for the specific worker as well as the availability and accessibility of the information for each child. The time spent could range from approximately 30 minutes to several hours. The current average wage for a social worker in the State of Ohio is \$22 per hour, according to Zip Recruiter. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would range from \$11-\$110, depending on administrative and staffing variables. There is no additional cost as a result 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?

The adverse impact of the rules is necessary to ensure the safety of children in substitute care.

Regulatory Flexibility

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

There are no exemptions and no alternative means of compliance for rules 5101:2-42-90, 5101:2-48-15, or 5101:2-48-21.

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?

There are no fines or civil penalties for non-compliance with rules 5101:2-42-90, 5101:2-48-15, or 5101:2-48-21 other than the forfeiture of certification through denial or revocation.

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

ODJFS publishes all rules online as an e-manual. All public and private agencies have access to this publication, which is located at <http://emanuals.jfs.ohio.gov/>.

ODJFS has regional offices with licensing specialists that will be assigned to assist the agency in compliance with the requirements of rules 5101:2-42-90, 5101:2-48-15, and 5101:2-48-21.