



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

### 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):

Application Process and Preservice Training

Rule Number(s): 5101:2-48-09

Date of Submission for CSI Review: 10/26/2021

Public Comment Period End Date: 11/2/2021

**Rule Type/Number of Rules:**

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

X Amended/ 1 rules (FYR? no)

Rescinded/\_\_\_ rules (FYR?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 5101:2-48-09 entitled Application Process and Preservice Training provides guidance to agencies regarding the process and training required for persons seeking adoption approval. Paragraph (D) was amended to change terminology from adoptive parent to applicant. Paragraph (F)(3) was amended to provide reference to the offense list in appendix A of rule 5101:2-7-02, and to update language to enhance clarity. Paragraphs (O)(9) and (O)(10) were topics of training that need removed. Paragraphs (O)(11) and (O)(12) were amended to remove the requirement of training for a specified time frame for cultural issues and for section 2152.72 of the Revised Code. Paragraph (P) was amended to remove the requirement to not allow the training on cultural issues to be waived, which will allow for cultural training to be a regular topic that could be subject to a waiver. In Paragraph (Q) language was updated to change terminology from handicap to disability, and sexual identity to gender identity.

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- 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
Rule 5101:2-48-09	ORC 2151.86, 3107.033, 5103.03

- 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 5101:2-48-09 does 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.**

Rule 5101:2-48-09 does 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, establish regulations for the minimum standards to ensure the safety and well-being of children being placed in adoptive homes.

Rule 5101:2-48-09 ensures the safety and well-being of children by outlining application requirements to establish minimum standards for those interested in adoption. The rule also prescribes preservice training requirements for applicants interested in adoption, to ensure they have the knowledge and skills to determine if adoption is the appropriate choice for their family.

- 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 the rule in assuring the safe placement of children into adoptive homes.

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- 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.*

Not applicable.

### **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 placed the rule on the preclearance website prior to the formal clearance process. During preclearance and clearance, the rule was presented to the Ohio Adoption Planning group where feedback was requested and received during the meetings. The rule went through the ODJFS clearance process on August 11, 2021 through August 25, 2021. Feedback was received also from Ohio's University Consortium for Child and Adult Services from discussions on proposed changes regarding preservice training.

- 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 comments received from stakeholder engagement prior to and with formal clearance were included in the rule, as appropriate. Examples include, clarifying language to enhance clarity, changing terminology, removing training topics, removing a specified number of required training hours, and to allow training topics to be waived.

- 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- 48-09 as the rule is driven by statute.

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**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.

**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 rules address these specific issues. ODJFS legal staff reviewed the rule 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.**

This rule does not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the 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 Chapters 5101:2-48 contain requirements that include eighty-eight public and over one hundred private agencies. Requirements must be met to obtain and/or maintain approval.

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

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The adverse impact for 5101:2-48-09 involves the timeframes for obtaining information, organizing documents, and reviewing of the documents required of this rule to initiate an adoption homestudy and ensure adoptive applicants complete preservice training. These activities are typically conducted by a caseworker/social worker that is also an assessor and the time they spent on those activities could range from approximately three hours to several hours. Preservice training typically takes anywhere from 4-8 weeks to complete, depending on the training schedule and if the applicants attend and complete the preservice training within the proposed timeframe. The average homestudy takes 3-6 months to complete depending on the individuals applying are studied for approval for adoptive placement or as a joint homestudy for foster care placement and how pro-active applicants are in submitting the required documentation. Other factors that may affect the length of time for obtaining and completing a homestudy will depend on the level of experience of the assessor, the number of applicants that complete preservice classes and are ready for next steps of the homestudy, as well as the number of staff employed at each agency that will be assisting in completing homestudies. The rule requires the retention and documentation and reporting of information such as homestudy results and JFS forms. Some documentation would be kept in physical files and other documentation would be recorded in the Ohio SACWIS system. There are no fees or finds for lack of compliance for agencies to follow procedures and guidelines for obtaining the required information and documentation to initiate an adoption homestudy.

**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 5101:2-48-09 includes time spent obtaining the required information documentation to initiate an adoption homestudy and ensuring adoptive applicants complete preservice training requirements. The estimated time spent on those activities could range from approximately three hours to several hours depending on the level of experience of the caseworker/social worker and how pro-active applicants are in completing the preservice training and submitting the required documentation. The anticipated cost to comply with this rule would also depend on the wage for the specific worker, as well as the availability and accessibility of the information of each applicant. The current average wage for a child welfare caseworker in the State of Ohio is \$28 per hour, according to Salary Expert. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would be at a minimum of \$84 that could increase upwards, depending on the variables presented. There are no additional costs because of the amendments to this rule.

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**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 this rule 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 5101:2-48-09 there are no fines or civil penalties 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 this rule.