



April 20, 2021

Child Support Program Manual Transmittal Letter (CSPMTL) No. 172

TO: All Child Support Program Manual Holders
FROM: Matt Damschroder, Interim Director
SUBJECT: Five Year Rule Review – New Hire & Record Retention Rules

The Office of Child Support (OCS) is conducting a rule review in accordance with section 106.031 of the Revised Code, which requires the review of all state agency rules within a five-year period.

OCS has rescinded the following rules:

Rescinded Rule	Rescinded Rule Title	Prior Effective Date of Rule	Effective Date of Rescission
5101:12-10-90.2	New Hire Directory of Employees	9/01/2015	6/01/2021
	<p>This rule describes the process by which ODJFS enters the information described in division (A)(1) of section 3121.89.2 of the Revised Code into the new hire directory of employees. The rule is being rescinded as the provisions are stated in ORC.</p> <p>This rule is authorized under ORC sections 3121.8911 and 3125.25, and amplifies ORC sections 3121.894, 3121.895, 3121.897, 3121.898 and 3125.03.</p>		
5101:12-10-90.3	New Hire Directory of Independent Contractors	9/01/2015	6/01/2021
	<p>This rule describes the actions ODJFS takes upon receiving a new hire report regarding a contractor, including entering the information into the new hire directory, and comparing the social security number of the contractor with the social security numbers of obligors in the Support Enforcement Tracking System (SETS). The rule also states that ODJFS shall use information from the new hire report for support establishment and enforcement purposes. The rule is being rescinded as the provisions are stated in ORC.</p> <p>This rule is authorized under ORC sections 3121.8911 and 3125.25, and amplifies ORC sections 3121.891, 3121.892, 3121.895, 3121.896, 3121.898 and 3125.03.</p>		

OCS has filed the following rule as **no change**. The effective date of the rule remains the same as the existing rule.

Rule Number	Rule Title	Effective Date of Rule
5101:12-10-90.1	Employer Responsibilities	5/01/2014
	<p>This rule describes the responsibilities of an employer to submit a new hire report to the Ohio Department of Job and Family Services. The rule also lists the required data and the process of submitting the data; and identifies an employer's liability for failing to submit a new hire report.</p> <p>This rule is authorized under ORC sections 3121.8911 and 3125.25, and amplifies ORC sections 3121.891, 3121.892, 3121.893, 3121.8910, and 3125.03.</p>	

OCS has **revised** the following rules:

Amended Rule	Amended Rule Title	Prior Effective Date of Rule	Effective Date of Amendment
5101:12-1-25	Record Retention, Disposal, And Destruction of Fiscal, Statistical, and Administrative Records	9/01/2015	6/01/2021
	<p>This rule describes the retention and destruction of all records that relate to the child support program. The rule is being revised to clarify the retention period in paragraph (C).</p> <p>This rule is authorized by ORC section 3125.25 and amplifies ORC sections 9.01, 149.38, and 3125.15.</p>		
5101:12-10-90	New Hire Reporting Program	9/01/2015	6/01/2021
	<p>This rule identifies the federal law that requires Ohio to administer a new hire reporting program; contains definitions used in this rule and the supplemental rules; specifies that new hire reports are not public records; and notes that the Ohio Department of Job and Family Services may provide copies of new hire reports to the Bureau of Workers Compensation. Changes from the existing rule include: corrected a typo in paragraph (B)(4) and clarified the language in paragraph (C).</p> <p>This rule is authorized by ORC sections 3121.8911 and 3125.25, and amplifies ORC sections 3121.89, 3121.899, and 3125.03.</p>		

OCS has **revised** the following form:

Revised Form	Revised Form Title	Prior Effective Date	Effective Date of Revision
JFS 07048	Ohio New Hire Reporting	12/2013	2/2021
	<p>This is a form for an employer to manually complete and submit to OCS when reporting a new employee.</p> <p>The form is being revised to correct 2 typos and the format to meet the requirements of IPP 4301.</p>		

INSTRUCTIONS:

When the CSPMTL is published, the CSPM will be updated as follows:

- A no change rule will continue with the same effective date,
- A rescinded rule will be moved from the CSPM to the OAC Archive section of the eManuals.
- An amended rule will be inserted, and the previous version will be moved to the OAC Archive section of the eManuals,
- A revised form will be replaced with the amended form.

The rules and forms in the CSPM can be accessed at: <http://emanuals.jfs.ohio.gov/>

Forms can also be accessed on the ODJFS Forms Central InnerWeb page at:
<http://www.odjfs.state.oh.us/forms/inner.asp>

or on the ODJFS Forms Central Internet page at:
<http://www.odjfs.state.oh.us/forms/inter.asp>

INSTRUCTIONS for CSEA INTERNAL PROCEDURAL HANDBOOK:

Paragraph (I)(1) of OAC rule 5101:12-1-01 states that, whenever a program change requires modification of local procedures, the CSEA is required to revise its internal procedural handbook and submit the revision to OCS within thirty days of the revision. The CSEA should carefully review the amended rules contained in this CSPMTL to determine whether they require the CSEA to update its internal procedural handbook.

5101:12-1-25 **Record retention, disposal, and destruction of fiscal, statistical, and administrative records.**

- (A) The child support enforcement agency (CSEA) shall follow the procedures of retention, disposal, and destruction of records described in section 149.38 of the Revised Code, and rule 5101:9-9-21 of the Administrative Code.
- (B) Pursuant to 45 C.F.R. sections 92.42 (effective 10/2014) and 302.15 (effective 10/2012), the CSEA shall retain all fiscal and statistical records and their supporting documents that are required to be maintained under the Title IV-D program, or otherwise reasonably considered as pertinent to the requirements of the Title IV-D program. These records shall be retained:
- (1) For a minimum of three years from the end of the fiscal year to which the records are applicable; or
 - (2) In accordance with the county records commission in the county in which the CSEA serves, when the county records commission requires a retention period more than three years.
- (C) Pursuant to 45 C.F.R. sections 92.42 and 302.15, the CSEA shall retain case records that are required to be maintained under the Title IV-D program, or otherwise reasonably considered as pertinent to the requirements of the Title IV-D program. Case records include any records described in rule 5101:12-10-05 of the Administrative Code. Case records for a case in which program services have been terminated shall be retained:
- (1) For a minimum of three years after the case is closed in accordance with rule 5101:12-10-70 of the Administrative Code; or
 - (2) For a longer period as determined by the county records commission.
- ~~When a balance exists on a case in which program services have been terminated and the records retention period described in this rule has run, the case records must be retained until the balance has been paid.~~
- (D) When a balance exists on a case in which program services have been terminated and the records retention period described in this rule has run, the case records are to be retained until the balance has been paid.
- ~~(D)~~(E) Pursuant to 45 C.F.R. section 92.42 and section 9.01 of the Revised Code, copies made by microfilming, photocopying, digital imaging or similar methods may be substituted for the original records.

Effective: 6/1/2021
Five Year Review (FYR) Dates: 1/28/2021 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

04/09/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3125.25
Rule Amplifies: 9.01, 149.38, 3125.15
Prior Effective Dates: 08/01/1982, 07/11/1987, 12/01/1987, 07/15/1988,
09/01/1988, 12/20/1988, 06/09/1989, 10/01/1990,
11/01/1991, 04/01/1992, 01/01/1993, 10/01/1999,
02/22/2002, 01/01/2005, 06/15/2006, 07/01/2010,
09/01/2015

5101:12-10-90 **New hire reporting program.**

(A) Federal law at 42 U.S.C. 653a (4/21/2012) requires the implementation of a new hire reporting program in each state to accomplish the purpose of locating parents, establishing paternity, and establishing and enforcing support obligations of parents. This rule and its supplemental rules describe the Ohio new hire reporting program.

(B) The following definitions shall be used in this rule and its supplemental rules.

(1) "Contractor" means an individual who provides services to an employer as an independent contractor for compensation that is reported as income other than wages and who is an individual, the sole shareholder of a corporation, or the sole member of a limited liability company. "Contractor" does not include any of the following:

(a) An individual performing intelligence or counterintelligence functions for a state agency if the head of the agency has determined that reporting pursuant to this section could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission;

(b) A professionally licensed person who is providing services to the employer under that license; or

(c) An individual who will receive for the services provided under the contract compensation of less than two thousand five hundred dollars per year.

(2) "Employee" means an individual who is employed to provide services to an employer for compensation that is reported as income from wages. "Employee" does not include an individual performing intelligence or counterintelligence functions for a state agency, if the head of the agency has determined that reporting pursuant to this paragraph could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(3) "Employer" means any person or government entity other than the federal government for which an individual performs any service, of whatever nature, as the employee or contractor of such person, except that:

(a) If the person for whom the individual performs services does not have control of the payment of compensation for the services, employer means the person having control of the payment of the compensation.

(b) In the case of a person paying compensation on behalf of a nonresident alien individual, foreign partnership, or foreign corporation not engaged in

trade or business within the United States, "employer" means the person paying the compensation.

(c) In the case of compensation paid to a contractor, "employer" does not include any person or entity that lacks a federal employer identification number.

(4) "Newly hired employee" means an employee who:

(a) Has not ~~previously~~previously been employed by the employer; or

(b) Was previously employed by the employer but has been separated from such prior employment for at least sixty consecutive days.

(5) "Professionally licensed person" has the same meaning as in section 2925.01 of the Revised Code.

(C) The new hire reports required by this rule and its supplemental rules shall not be considered public records for purposes of section 149.43 of the Revised Code. Ohio department of job and family services (ODJFS) may disclose information in the new hire reports ~~to any agent of the department or child support enforcement agency (CSEA) that is under contract with ODJFS for the purposes listed in paragraph (E) of rule 5101:12-10-90.2 and paragraph (D) of rule 5101:12-10-90.3 of the Administrative Code. ODJFS may submit to the bureau of workers' compensation a copy of any new hire report it receives~~ to any entity as described in sections 3121.898 and 3121.899 of the Revised Code.

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Five Year Review (FYR) Dates: 1/28/2021 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

04/09/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3121.8911, 3125.25
Rule Amplifies: 3121.89, 3121.899, 3125.03
Prior Effective Dates: 10/01/1997 (Emer.), 12/30/1997, 12/01/2001,
09/01/2005, 05/01/2014, 09/01/2015

5101:12-10-90.1 **Employer responsibilities.**

- (A) Every employer shall make a new hire report to the Ohio department of job and family services (ODJFS) regarding, a newly hired employee as defined in rule 5101:12-10-90 of the Administrative Code or a contractor of a person who resides, works, or will be assigned to work in this state to whom the employer anticipates paying compensation.
- (B) An employer with employees or contractors in two or more states that transmits new hire reports magnetically or electronically may make the new hire report to another state if the employer does both of the following:
- (1) Notifies ODJFS and the United States secretary of health and human services in writing that the employer has designated another state as the state to which the employer will transmit the report; and
 - (2) Transmits the report to that state in compliance with federal law.
- (C) An employer shall include all of the following in each new hire report:
- (1) For each employee, the employee's name, address, date of birth, social security number, and date of hire;
 - (2) The date services were first performed by the employee for pay;
 - (3) For each contractor, the contractor's name, address, social security or tax identification number, the date payments begin, and the length of time the contractor will be performing services for the employer; and
 - (4) The employer's name, address, and identification number.
- (D) An employer may make a new hire report by submitting a copy of the United States internal revenue service form W-4 (employee's withholding allowance certificate) for the employee, a form provided by ODJFS, or any other hiring document or data storage device or mechanism ODJFS authorizes. An employer may make the new hire report by mail, fax, magnetic or electronic means, or other means ODJFS authorizes. If an employer makes a new hire report by mail, the date of making the report is the postmark date if the report is mailed in the United States with first-class postage and is addressed as ODJFS authorizes. An employer shall make the new hire report no later than twenty days after the date on which the employer hires an employee or the date on which the employer engages or re-engages the contractor or the contractor resumes providing services under the contract.
- (E) Pursuant to section 3121.8910 of the Revised Code, an employer that fails to make a new hire report shall be liable to ODJFS for a civil penalty of twenty-five dollars for

each failure to make a report. If the failure to make a new hire report is the result of a conspiracy between the employer and the employee not to supply the report or to supply a false or incomplete report, the employer shall be liable for a civil penalty of five hundred dollars for each such failure.

Five Year Review (FYR) Dates: 2/18/2021 and 02/01/2026

CERTIFIED ELECTRONICALLY

Certification

02/18/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3121.8911, 3125.25
Rule Amplifies: 3121.891, 3121.892, 3121.893, 3121.8910, 3125.03
Prior Effective Dates: 10/01/1997 (Emer.), 12/30/1997, 12/01/2001,
09/01/2005, 12/01/2011, 05/01/2014

TO BE RESCINDED

5101:12-10-90.2 **New hire directory of employees.**

- (A) The Ohio department of job and family services (ODJFS) shall, within five days of receipt of a new hire report from an employer regarding an employee, enter the information described in division (A)(1) of section 3121.892 of the Revised Code into the new hire directory of employees, which shall be part of or accessible to the automated data processing system required pursuant to section 3125.07 of the Revised Code.
- (B) ODJFS shall make comparisons of the social security numbers obtained pursuant to division (A)(1) of section 3121.892 of the Revised Code and the social security numbers appearing in the case registry maintained pursuant to sections 3121.81 to 3121.86 of the Revised Code.
- (C) If the comparison conducted by ODJFS described in paragraph (B) of this rule results in a match, the support enforcement tracking system (SETS) will automatically generate, within two business days, a JFS 04047, "Income Withholding for Support" (effective or revised effective date as identified in rule 5101:12-10-99 of the Administrative Code), to the employer pursuant to section 3121.03 of the Revised Code, unless the employee's income is not subject to withholding, and shall take any other appropriate action under Chapters 3119., 3121., 3123., and 3125. of the Revised Code.
- (D) Within three business days after information is entered into the new hire directory, ODJFS shall furnish the information to the national directory of new hire. ODJFS shall furnish to the national directory of new hire on a quarterly basis such information contained in the records of the department as is required by state and federal law.
- (E) ODJFS shall use the new hire reports it receives to locate individuals for the purposes of establishing paternity; for establishing, modifying, and enforcing support orders being administered by child support enforcement agencies in this state; and to make available to any state agency responsible for administering any of the following programs for purposes of verifying program eligibility:
- (1) Any Title IV-A program as defined in section 5101.80 of the Revised Code;
 - (2) The medicaid program;
 - (3) The unemployment compensation program authorized by Chapter 4141. of the Revised Code;

- (4) The supplemental nutrition assistance program authorized by section 5101.54 of the Revised Code;
- (5) Any other program authorized in 42 U.S.C. 1320b-7(b) (2/2014).

Effective: 6/1/2021

Five Year Review (FYR) Dates: 1/28/2021

CERTIFIED ELECTRONICALLY

Certification

04/09/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3121.8911, 3125.25
Rule Amplifies: 3121.894, 3121.895, 3121.897, 3121.898, 3125.03
Prior Effective Dates: 10/01/1997 (Emer.), 12/30/1997, 12/01/2001,
09/01/2005, 03/01/2013, 09/01/2015

TO BE RESCINDED

5101:12-10-90.3 **New hire directory of independent contractors.**

- (A) When the Ohio department of job and family services (ODJFS) receives a new hire report from an employer regarding an independent contractor, ODJFS shall enter the information described in division (A)(2) of section 3121.892 of the Revised Code into the new hire directory of independent contractors.
- (B) ODJFS shall make comparisons of the social security numbers obtained pursuant to division (A)(2) of section 3121.892 of the Revised Code and the social security numbers appearing in the case registry maintained pursuant to sections 3121.81 to 3121.86 of the Revised Code.
- (C) If the comparison conducted by ODJFS described in paragraph (B) of this rule results in a match, ODJFS shall notify each child support enforcement agency (CSEA) with administrative responsibility for the case in which the social security number matches that of the obligor and provide the CSEA with the reported information regarding the contractor.
- (D) The CSEA shall use the new hire reports it receives to locate individuals for the purposes of establishing paternity and for establishing, modifying, and enforcing support orders being administered by child support enforcement agencies in this state.

Effective: 6/1/2021

Five Year Review (FYR) Dates: 1/28/2021

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Certification

04/09/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3121.8911, 3125.25
Rule Amplifies: 3121.891, 3121.892, 3121.895, 3121.896, 3121.898,
3125.03
Prior Effective Dates: 10/01/1997 (Emer.), 12/30/1997, 12/01/2001,
09/01/2005, 09/01/2015

OHIO NEW HIRE REPORTING

Ohio Revised Code sections 3121.89 to 3121.8910 require all Ohio employers, both public and private, to report all contractors and newly hired employees to the state of Ohio within 20 days of the contract or hire date. Information about new hire reporting and online reporting is available on our website: www.oh-newhire.com

Send completed forms to:
 Ohio New Hire Reporting Center
 P.O. Box 15309
 Columbus, OH 43215-0309
 Fax: (614) 221-7088 or Toll-Free Fax: (888) 872-1611

To ensure the highest level of accuracy, please print neatly in capital letters and avoid contact with the edges of the boxes. The following will serve as an example:

A	B	C	1	2	3
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EMPLOYER INFORMATION

Federal Employer ID Number (FEIN) <i>(Please use the same FEIN as the listed employee's quarterly wages will be reported under)</i>															
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]
Employer Name															
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]
Employer Address <i>(Please indicate the address where the Income Withholding Order should be sent)</i>															
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]
Employer City															
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	Employer State				[]	[]
Employer Phone <i>(Optional)</i>															
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	Extension				[]	[]
Employer Fax <i>(Optional)</i>															
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	Employer E-mail					
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]

EMPLOYEE OR CONTRACTOR INFORMATION

Social Security Number (SSN)																
[]	[]	[]	-	[]	[]	-	[]	[]	[]	[]	[]	[]	[]	[]	[]	
														<input type="checkbox"/>	<i>(Check here if using FEIN for the Contractor)</i>	
First Name														Middle Initial		
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	
Last Name																
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	
Address																
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	
City																
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	State				[]	[]	
ZIP Code																
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	Date of Hire				[]	[]	
Date of Birth																
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	Is this a Contractor?						
										<input type="checkbox"/>	Yes		<input type="checkbox"/>	No		
Date payments will begin for Contractor																
[]	[]	[]	[]	[]	[]	[]	[]	[]	[]	Length of time the Contractor will be performing services				[]	[]	
months																

REPORTS WILL NOT BE PROCESSED IF REQUIRED INFORMATION IS MISSING
 If you have questions call us at (614) 221-5330 or toll-free (888) 872-1490