



June 4, 2024

Family, Children and Adult Services Transmittal Letter No. 547

TO: Family, Children and Adult Services Manual Holders

FROM: Kara B. Wentz, DCY Director
Matt Damschroder, ODJFS Director

SUBJECT: Amendments to Ohio Administrative Code rules 5101:2-42-06 and 5101:2-42-07

This letter transmits amendments to Ohio Administrative Code (OAC) rules 5101:2-42-06 and 5101:2-42-07 as a result of five-year rule review. The rules will be effective July 1, 2024.

The following is a brief summary of the changes and additions.

OAC 5101:2-42-06 entitled **Agreement for temporary custody of child** prescribes the form to be used by agencies for an agreement of temporary custody of a child pursuant to 5103.15 of the Revised Code. The rule has been amended to remove the revision date from the form referenced in the rule and regulatory restrictive words as described in Senate Bill 9 of the 134th General Assembly have been removed.

OAC 5101:2-42-07 entitled **Extension of agreement for temporary custody of child** prescribes the form to be used by agencies to extend the agreement of temporary custody of a child pursuant to 5103.15 of the Revised Code. The rule has been amended to remove the revision date from the form referenced in the rule and regulatory restrictive words as described in Senate Bill 9 of the 134th General Assembly have been removed.

JFS Form 01645 entitled **Agreement for temporary custody of child** is the form used by an agency to initiate an original agreement or additional thirty day extension, to receive temporary custody of a child. The form is being amended for the five year rule review process and the revision date has been changed.

INSTRUCTIONS:

The following chart depicts what materials should be deleted from the Family, Children and Adult Services Manual (FCASM) and what materials are to be inserted in the FCASM.

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
Substitute Care	5101:2-42-06 5101:2-42-07	5101:2-42-06 5101:2-42-07

Ohio Department of Children and Youth
Kara Wentz, Director
246 N. High Street
Columbus, OH 43215 U.S.A

Ohio Department of Job and Family Services
Matt Damschroder, Director
30 E. Broad Street
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Forms	JFS 01645	JFS 01645
Transmittal Letters		FCASMTL No. 547

Ohio Department of Children and Youth

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5101:2-33-03

Procedure for complaints of alleged discriminatory acts, policies or practices in the foster care or adoption process that involve race, color or national origin.

(A) Each public children services agency (PCSA), private child placing agency (PCPA), and private noncustodial agency (PNA) shall provide a written notice of the procedure for any complaints of discrimination in the foster care or adoption process that involve race, color or national origin (RCNO) to all individuals inquiring about or applying to be a foster caregiver or adoptive parent. Such notice shall be provided within seven days of the individual's first contact with the agency.

(B) Any individual may file a complaint alleging a discriminatory act, policy or practice involving RCNO in the foster care or adoption process of a PCSA, PCPA, PNA or the Ohio department of job and family services (ODJFS).

Any person, including but not limited to, an employee or former employee of a PCSA, PCPA, or PNA or a member of a family which has sought to become a foster caregiver or adoptive parent, may also file a complaint alleging that he or she was intimidated, threatened, coerced, discriminated against or otherwise retaliated against in some way by a PCSA, PCPA, PNA or by ODJFS, due to the individual making a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing in connection with an allegation that a PCSA, PCPA, PNA or ODJFS engaged in discriminatory acts, policies, or practices as it applies in the foster care or adoption process.

(C) The individual filing a complaint shall use the JFS 02333 "Discrimination Complaint" ~~-(rev. 1/2015)~~. The complaint shall be filed within two years from the date of the occurrence of the alleged discriminatory act; or two years from the date upon which the complainant learned or should have known of a discriminatory act, policy or practice. The complaint may be filed with:

- (1) Any PCSA, PCPA or PNA; or,
- (2) The ODJFS- bureau of civil rights (BCR).

(D) When any complaint alleging discrimination involving RCNO in the foster care or adoption process is received by:

- (1) A PCSA, PCPA or PNA, the agency shall forward the complaint to ODJFS-BCR within three working days of date of receipt of the complaint.
- (2) ODJFS-BCR, the department shall notify the PCSA, PCPA, PNA that is the subject of the complaint within three working days of the receipt of the complaint.

- (E) ODJFS-BCR shall conduct an investigation of the complaint. The PCSA, PCPA or PNA that is the subject of the complaint shall not initiate, conduct, or run concurrent investigations surrounding the complaint or take any further action regarding the complainant or the subject of the complaint until the issuance of the final investigation report by ODJFS-BCR, unless approved by ODJFS-BCR.
- (F) The PCSA, PCPA or PNA that is the subject of the complaint shall cooperate fully with ODJFS-BCR during the course of the investigation and shall submit any information requested by ODJFS-BCR not later than fourteen days from the date of the request, unless otherwise agreed upon.
- (G) ODJFS-BCR shall conduct an investigation that shall include, but is not limited to:
- (1) Face-to-face interviews with the complainant, the respondent and all relevant witnesses.
 - (2) Issuance of a final investigation report to the complainant and the PCSA, PCPA or PNA that is the subject of the complaint. The report shall include the allegations, background information, analysis, determination and recommendations and shall be issued within one hundred twenty days of the receipt of the initial complaint.
- If unanticipated circumstances require additional time to complete the investigation or to issue the final report, ODJFS will notify the complainant and the PCSA, PCPA, or PNA that is the subject of the complaint of the need for additional time.
- (H) Upon completion of the final investigation report, ODJFS shall determine if any action against a PCSA, PCPA or PNA is warranted. For noncompliance by a PCSA, ODJFS may take any action permitted under section 5101.24 of the Revised Code. For noncompliance by a PCPA or PNA, ODJFS may take action concerning the agency's certificate pursuant to Chapter 5101:2-5 of the Administrative Code.
- (I) No person who has filed a complaint alleging a discriminatory act, policy or practice involving RCNO in the foster care or adoption process of a PCSA, PCPA or PNA or who has testified, assisted or participated in any manner in the investigation of a complaint shall be intimidated, threatened, coerced, or retaliated against by any employee or contractor of the PCSA, PCPA, PNA or ODJFS.
- (J) Nothing in this rule or in an agency's policy shall prohibit an individual from filing a complaint with the United States department of health and human services (HHS), office for civil rights (OCR) alleging discrimination that involves RCNO in the foster care or adoption process of a PCSA, PCPA, PNA or ODJFS.

- (K) The requirements of rules 5101:2-33-20 and 5101:2-48-24 of the Administrative Code do not apply to complaints of discrimination in the foster care or adoption process that involve RCNO.
- (L) Each PCSA, PCPA or PNA shall provide a written notice of the procedures for any complaints of discrimination in the foster care or adoption process that involve RCNO within thirty days of the effective date to all foster caregivers certified or in the process of certification and to all individuals who have approved adoptive homestudies or who are participating in the adoptive homestudy process on the effective date of this rule.

Effective: 4/12/2021
Five Year Review (FYR) Dates: 12/2/2020 and 04/12/2026

CERTIFIED ELECTRONICALLY

Certification

03/25/2021

Date

Promulgated Under: 119.03
Statutory Authority: 5101.141, 5103.03, 5153.166
Rule Amplifies: 5101.141, 5103.03, 5153.16
Prior Effective Dates: 02/01/2005, 03/01/2010, 07/01/2015



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):

Adoption and MEPA Rules

Rule Number(s): 5101:2-33-03, 5101:2-33-11, 5101:2-33-13, 5101:2-33-70

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/ 4 rules (FYR? yes)

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 5101:2-33-03 entitled "Procedure for complaints of alleged discriminatory acts, policies or practices in the foster care or adoption process that involve race, color or national origin," details the procedure that each public children services agency (PCSA), private child placing agency (PCPA), and private noncustodial agency (PNA) shall follow when a complaint of discrimination is filed. The revision dates were removed throughout.

OAC rule 5101:2-33-11, entitled "Multiethnic Placement Act (MEPA) agency administrative requirements, " details the responsibilities of the public children services agency and private child placing agency to designate MEPA monitors and the duties of the MEPA monitor. The rule also details the annual requirements of each private non-custodial agency, public children services agency, and private child placing agency to submit data and complete a Biennial Comprehensive Assessment. Paragraph (D) and (E) were deleted, as the requirements were obsoleted per Procedure Letter No. 325 in January 2018. The requirement for agencies to review and update their foster care and adoption recruitment plans annually

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was added. Wording in paragraph (F) was clarified. The revision dates were removed throughout.

OAC rule 5101:2-33-13, entitled "Administrative procedures for falsification in adoption," provides guidance to agencies on the procedures that must be followed if the agency suspects a false statement or false documents has knowingly been submitted during the homestudy process. The rule details the steps to be taken if this is discovered before and after approval of the homestudy. Adoptive parent was changed to adoptive family throughout the rule for consistency.

OAC rule 5101:2-33-70, entitled "Statewide automated child welfare information system (SACWIS) access," provides guidance to agencies on how to obtain access and on what information is to be entered into SACWIS. Additionally, the rule states who may be granted access to SACWIS and the responsibility of those with access to maintain confidentiality of the information within SACWIS. Wording in paragraph (E) was clarified. Paragraph (F) was removed due to redundancy, as a result lettering was changed as needed throughout the rule. 30 Days to Family specialist were added to the list of staff that could be granted access to SACWIS. There was a correction to a paragraph referenced from another rule. The revision dates were removed throughout.

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 5101:2-33-03	ORC 5101.141, 5103.03, 5153.16
Rule 5101:2-33-11	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-33-13	ORC 3107.033
Rule 5101:2-33-70	ORC 5101.134

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.

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Rule 5101:2-33-11 does implement the Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by Section 1808 of the Small Business Job Protection Act of 1996, Aug. 20, 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI).

The federal law prohibits delay or denial of the placement of a child for adoption or foster care on the basis of race, color, or national origin of the adoptive or foster parent, or the child involved. Furthermore, child welfare services programs must ensure diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed. States are to include a provision for diligent recruitment in their title IV-B State Plans. The diligent recruitment requirement in no way mitigates the prohibition on denial or delay of placement based on race, color or national origin.

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

This is not applicable to rules 5101:2-33-03, 5101:2-33-13, nor 5101:2-33-70 as they do not implement a requirement of Federal Law, nor do they or rule 5101:2-33-11 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, which are 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 5101:2-33-03 provides a procedure for agencies to follow in the event an individual file a complaint of discrimination involving race, color, or national origin. The rule establishes timelines and outlines investigative steps. This rule ensures that foster and adoptive parents are not discriminated against based on race, color, or national origin, which is in the best interest of children.

Rule 5101:2-33-11 provides guidance to agencies on adhering to the federal requirements of the Multiethnic Placement Act. Additionally, the rule details the annual requirement of Public Children Services Agency to review and update their foster and/or recruitment plan within SACWIS by June 30th. This rule helps to ensure that foster care and adoptive placements are not delayed or denied based on race, color, or national origin, which is in the best interest of children.

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Rule 5101:2-33-13 provides guidance to agency's when they suspect a false statement has been made or false documentation has been provided during the homestudy process. The rule outlines the steps the agency must take when falsification occurs.

Rule 5101:2-33-70 protects the best interest of child and families being served by ensuring that only individuals with a need have access to the Statewide automated child welfare information system which contains sensitive and confidential information. It provides guidance to agencies on who may be granted that access.

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

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe and timely 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

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.

There were comments received on www.ohiorulereview.org during the public posting period regarding clarification on wording in rule 5101:2-33-03 and 5101:2-33-11. There were also comments on wording clarification and redundancy in rule 5101:2-33-70. The PCSAO legislative committee reviewed the rules and provided no input. There were no additional public comments made on the rule package.

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

There were comments received on www.ohiorulereview.org during the pre-clearance posting period that were reviewed. Comments received during the public posting period on www.ohiorulereview.org regarding clarification on wording in rule 5101:2-33-03 and 5101:2-33-11. There were also comments on wording clarification and redundancy in rule 5101:2-33-70.

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The comments made during this period had no impact on the initial draft. The rules went through the clearance process from 9/24/20 to 10/8/20 and received no comments.

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 these rules as 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.*

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 being placed and all families that receive services.

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

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues.

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 (PFOF) regional teams have also been developed to offer technical assistance and improve consistency statewide. All request

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for access to SACWIS are reviewed by Office Information Systems. MEPA is a federal law and instances of non-compliance can be met with financial consequences for the state.

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 5101:2-33 contain administrative requirements for agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

The nationwide average salary for a case worker is \$46,042 or \$22.13/hour per the employment website, www.indeed.com.

5101:2-33-03 --The timeframes involved include providing documentation of the right to file a complaint along with timeframes provided in the event that a complaint is filed. Once an individual makes an inquiry about becoming a foster or adoptive parent the agency has seven day to provide the written procedure to file a complaint involving race, color or national origin. The complainant is required to file a complaint with the agency, or ODJFS-Bureau of Civils Rights (ODJFS-BCR). Within two year from the date of the occurrence or from learning about the occurrence of discrimination. The ODJFS-BCR has 120 days to make any recommendations regarding the complaint. The cost incurred would relate to the time staff from the agency use to send the ODJFS-BCR the complaint, which would be less than one hour at an average hourly rate of \$22.13.

5101:2-33-11—The timeframes involve gathering information to review and update their foster and/or adoption requirement plan with SACWIS annually by June 30th. The cost incurred would relate to the time staff from the agency use to review the plan and make any needed changes that could vary depending on the changes made. This plan in already a administrative requirement, so reviewing the plan or making change could take 1-5 hours depending on edits, for a total of \$22.13-\$110.65.

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5101:2-33-13 —The timeframes involve the agency making their agency administrator aware of any falsification that occurs regarding the homestudy process. Additionally, if there is a child placed in the home the agency with custody of the child must be notified with 24 hours of the administrator being notified. All other timeframes involved the individual(s) who engaged in the falsification. The time spent completing the investigation will vary depending on the subject of the investigation. The time incurred may include travel time, the staff may spend 2-10 hours depending on gathering information, completing interviews, and documenting the information gathered. The total cost may average \$44.26-\$221.30.

5101:2-33-70 The timeframes involve the actives performed to obtain access to the Statewide automated child welfare information system. The timeframe involved completing a form and requesting access which would be less than one hour at an average hourly rate of \$22.13.

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

The rules protecting the rights of potential and current foster and adoptive parents. They also ensure that placement is not delayed due to discrimination based upon race, color, and national origin. Ensuring that homestudies are truthful and accurate assist agencies in making safe placements for children. Guidance about who may access the Statewide Automated Child Welfare Information system (SACWIS) and the use of information contained in the system is necessary for agency administrative functioning.

Regulatory Flexibility

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

No, alternative means of compliance based on agency size does comport with the subject matter and context of these rules.

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 rules 5101:2-33-03, 5101:2-33-13, there are no fines or civil penalties for non-compliance other than the potential loss of adoption homestudy approval.

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Rule 5101:2-33-11 implements the Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by Section 1808 of the Small Business Job Protection Act of 1996, Aug. 20, 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI). States that are determined to be out of compliance will be involved in a corrective action plan. The penalties imposed by the statute are graduated and vary according to the population of the state and the frequency and duration of noncompliance.

Rule 5101:2-33-70, misuse or unauthorized use of the confidential information housed within the Statewide Automated Child Welfare Information System has criminal penalties listed in section 5101.99 of the ORC and administrative penalties for Public Children Services Agencies.

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



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: November 24, 2020

RE: **CSI Review – Adoption and Multiethnic Placement Act Rules (OAC 5101:2-33-03, 5101:2-33-11, 5101:2-33-13, and 5101:2-33-70)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office’s comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of four amended rules proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on October 20, 2020, and the public comment period was held open through October 27, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 20, 2020.

Ohio Administrative Code (OAC) Chapter 5101:2-33 establishes administrative requirements for adoption agencies. OAC 5101:2-33-03 describes the procedures for agencies when receiving a complaint of discrimination. The rule is amended to remove revision dates for the various forms referenced in the rule. OAC 5101:2-33-11 establishes administrative requirements concerning the Multiethnic Placement Act (MEPA) and is amended to remove requirements for completing a MEPA Biennial Comprehensive Self-Assessment and to include an annual review of the foster care and adoption recruitment plan through the Statewide Automated Child Welfare Information System (SACWIS). OAC 5101:2-33-13 establishes procedures for an agency when it receives false statements or documents and is amended to replace the term “adoptive parent” with “adoptive

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family.” OAC 5101:2-33-70 concerns agency access to SACWIS and is amended to remove redundant access requirements and to permit “30 Days to Family” specialists to access the SACWIS.

During early stakeholder outreach, ODJFS sent the rules to relevant stakeholders for feedback. During this time, ODJFS received comments that requested clarification of rule language, which ODJFS provided. No comments were received during the CSI public comment period.

The business community impacted by these rules includes public and private adoption agencies operating in Ohio. The adverse impact is primarily the administrative effort required by the rules, including providing documentation, completing annual reviews, investigating false submissions, and accessing the SACWIS. ODJFS notes in the BIA that adherence to the rule requirements is necessary to maintain agency certification.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 03/25/2021 2:03 PM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-33

OAC rule 5101:2-33-03 "Procedure for complaints of alleged discriminatory acts, policies or practices in the foster care or adoption process that involve race, color or national origin"

OAC rule 5101:2-33-11 "Multiethnic Placement Act (MEPA) agency administrative requirements"

OAC rule 5101:2-33-13 "Administrative procedures for falsification in adoption"

OAC rule 5101:2-33-70 "Statewide automated child welfare information system (SACWIS) access"

DATE: December 1, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

30 East Broad Street
Columbus, OH 43215
jfs.ohio.gov

This institution is an equal opportunity provider and employer.

5101:2-33-11 **Multiethnic Placement Act (MEPA) agency administrative requirements.**

- (A) Each public children services agency (PCSA) and private child placing agency (PCPA) shall designate a person to serve as the agency's internal monitor for the purposes of the Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by Section 1808 of the Small Business Job Protection Act of 1996, Aug. 20, 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI), (MEPA) monitor. PCSAs and PCPAs may share MEPA monitors from other PCSAs or PCPAs to fulfill MEPA monitoring functions.
- (1) The MEPA monitor shall not be the child's caseworker or the caseworker's supervisor.
 - (2) The MEPA monitor shall not serve as the agency's civil rights coordinator.
- (B) A private noncustodial agency (PNA) is not required to designate a MEPA monitor but shall refer all cases in which race, color, or national origin (RCNO) may be a factor in the placement decision to the child's custodial agency for assessment pursuant to rules 5101:2-42-18.1 and 5101:2-48-13 of the Administrative Code.
- (C) The MEPA monitor shall review and monitor foster care and adoptive placement decisions when the agency has a completed JFS 01688 "Individualized Child Assessment" ~~(rev. 06/2017)~~ The JFS 01688 is in effect for twelve months from the date of the final decision as documented on the JFS 01688 pursuant to rules 5101:2-42-18.1 and 5101:2-48-13 of the Administrative Code.
- ~~(D) Each of the following agencies shall complete the JFS 01668 "MEPA Biennial Comprehensive Self-Assessment Report" (rev. 8/2015) and submit it to the Ohio department of job and family services (ODJFS) by March first of every even numbered year. The review period shall be the two calendar years prior to the report due date:~~
- ~~(1) A PCSA:~~
 - ~~(2) A PCPA that is certified by ODJFS to perform the functions specified in paragraphs (C)(6) to (C)(11) of rule 5101:2-5-03 of the Administrative Code.~~
 - ~~(3) A PNA that is certified by ODJFS to perform the functions specified in paragraphs (D)(7) to (D)(11) of rule 5101:2-5-03 of the Administrative Code.~~
- ~~(E) Each PCSA and PCPA operating an adoption program shall submit the following aggregate data to ODJFS by completing the JFS 01420 "Multiethnic Placement Act~~

~~Corrective Action and Resolution Plan Data Collection Requirements" (rev. 1/2015).
The data shall be submitted to ODJFS by March first of every even numbered year.~~

~~(1) The number of adoptive matches made with children in the agency's permanent custody which were accepted by the family to whom the child was presented.~~

~~(2) The number of adoptive matches made with children in the agency's permanent custody which were declined by the family. Those declined would include, but is not limited to, matches where the family and child began pre-placement visits; however, the family decided not to accept the child.~~

(D) Annually each PCSA, PCPA, and PNA is to review and update their foster care and adoption recruitment plan. The review and update is to be completed in the statewide automated child welfare information system (SACWIS) by June 30th each year.

~~(F)~~(E) Each PCSA, PCPA, and PNA operating a foster care or adoption program shall adopt written standards of conduct that will govern the performance of its employees or contractors, as that performance relates to compliance with, MEPA and the Civil Rights Act of 1964 (Title VI) as they apply to the foster care and adoption process. The written standards of conduct shall:

(1) Prohibit denying any person the opportunity to become a foster caregiver or an adoptive parent on the basis of race, color or national origin of that person, or of the child involved; or delaying or denying any placement of a child in foster care or for adoption on the basis of the race, color or national origin of the foster caregiver(s), of the adoptive parent(s) or of the child involved.

(2) Include enforcement requirements to be used whenever an agency employee or contractor engages in discriminatory acts, policies, or practices involving race, color, or national origin in the foster care or adoption process as determined by ODJFS upon completion of the investigation conducted pursuant to rule 5101:2-33-03 of the Administrative Code.

(a) The enforcement requirements shall include standards governing penalties, sanctions, and other disciplinary actions, which may include suspension and/or removal, to be applied in accordance with applicable employment law and union contracts.

(b) The standards shall provide for the submission of a corrective action plan whenever an investigation conducted by ODJFS, pursuant to rule 5101:2-33-03 of the Administrative Code, results in a finding that an agency employee or contractor engaged in discriminatory acts, policies, or practices.

- (c) The standards require that the corrective action plan will address how the agency will prevent future violation by that employee or contractor and shall require that the corrective action plan be submitted to ODJFS within thirty days of notification of the findings of the investigation.
 - (d) The agency shall provide a copy of the written standards of conduct to each employee or contractor who is engaged in the placement of children into foster care or for adoption, or engaged in the recruitment, assessment, approval, or selection of a foster caregiver(s) or adoptive family. New employees or contractors shall receive a copy of the written standards of conduct within thirty days of their hire date or the effective date of their contract.
- ~~(G)~~(F) No PCSA, PCPA or PNA shall require an employee to justify a proposed placement for the reason that the race, color or national origin of the child is different from ~~that~~ ~~of~~ the family whom the worker is proposing as the child's foster caregiver or adoptive parent.

Effective: 4/12/2021
Five Year Review (FYR) Dates: 12/2/2020 and 04/12/2026

CERTIFIED ELECTRONICALLY

Certification

03/25/2021

Date

Promulgated Under: 119.03
Statutory Authority: 5101.141, 5103.03, 5153.166
Rule Amplifies: 5103.03, 5153.16
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/01/1990, 09/01/1994,
12/15/1995 (Emer.), 03/01/1996, 09/18/1996,
12/31/1996 (Emer.), 03/31/1997, 02/13/1998 (Emer.),
05/14/1998, 12/31/1998 (Emer.), 04/05/1999,
09/01/2000, 05/01/2002, 11/12/2002, 09/01/2003,
02/01/2005, 12/11/2006, 03/01/2010, 11/01/2012,
07/01/2015, 09/01/2017



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):

Adoption and MEPA Rules

Rule Number(s): 5101:2-33-03, 5101:2-33-11, 5101:2-33-13, 5101:2-33-70

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/ 4 rules (FYR? yes)

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 5101:2-33-03 entitled "Procedure for complaints of alleged discriminatory acts, policies or practices in the foster care or adoption process that involve race, color or national origin," details the procedure that each public children services agency (PCSA), private child placing agency (PCPA), and private noncustodial agency (PNA) shall follow when a complaint of discrimination is filed. The revision dates were removed throughout.

OAC rule 5101:2-33-11, entitled "Multiethnic Placement Act (MEPA) agency administrative requirements, " details the responsibilities of the public children services agency and private child placing agency to designate MEPA monitors and the duties of the MEPA monitor. The rule also details the annual requirements of each private non-custodial agency, public children services agency, and private child placing agency to submit data and complete a Biennial Comprehensive Assessment. Paragraph (D) and (E) were deleted, as the requirements were obsoleted per Procedure Letter No. 325 in January 2018. The requirement for agencies to review and update their foster care and adoption recruitment plans annually

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was added. Wording in paragraph (F) was clarified. The revision dates were removed throughout.

OAC rule 5101:2-33-13, entitled "Administrative procedures for falsification in adoption," provides guidance to agencies on the procedures that must be followed if the agency suspects a false statement or false documents has knowingly been submitted during the homestudy process. The rule details the steps to be taken if this is discovered before and after approval of the homestudy. Adoptive parent was changed to adoptive family throughout the rule for consistency.

OAC rule 5101:2-33-70, entitled "Statewide automated child welfare information system (SACWIS) access," provides guidance to agencies on how to obtain access and on what information is to be entered into SACWIS. Additionally, the rule states who may be granted access to SACWIS and the responsibility of those with access to maintain confidentiality of the information within SACWIS. Wording in paragraph (E) was clarified. Paragraph (F) was removed due to redundancy, as a result lettering was changed as needed throughout the rule. 30 Days to Family specialist were added to the list of staff that could be granted access to SACWIS. There was a correction to a paragraph referenced from another rule. The revision dates were removed throughout.

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 5101:2-33-03	ORC 5101.141, 5103.03, 5153.16
Rule 5101:2-33-11	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-33-13	ORC 3107.033
Rule 5101:2-33-70	ORC 5101.134

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.

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Rule 5101:2-33-11 does implement the Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by Section 1808 of the Small Business Job Protection Act of 1996, Aug. 20, 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI).

The federal law prohibits delay or denial of the placement of a child for adoption or foster care on the basis of race, color, or national origin of the adoptive or foster parent, or the child involved. Furthermore, child welfare services programs must ensure diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed. States are to include a provision for diligent recruitment in their title IV-B State Plans. The diligent recruitment requirement in no way mitigates the prohibition on denial or delay of placement based on race, color or national origin.

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

This is not applicable to rules 5101:2-33-03, 5101:2-33-13, nor 5101:2-33-70 as they do not implement a requirement of Federal Law, nor do they or rule 5101:2-33-11 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, which are 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 5101:2-33-03 provides a procedure for agencies to follow in the event an individual file a complaint of discrimination involving race, color, or national origin. The rule establishes timelines and outlines investigative steps. This rule ensures that foster and adoptive parents are not discriminated against based on race, color, or national origin, which is in the best interest of children.

Rule 5101:2-33-11 provides guidance to agencies on adhering to the federal requirements of the Multiethnic Placement Act. Additionally, the rule details the annual requirement of Public Children Services Agency to review and update their foster and/or recruitment plan within SACWIS by June 30th. This rule helps to ensure that foster care and adoptive placements are not delayed or denied based on race, color, or national origin, which is in the best interest of children.

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Rule 5101:2-33-13 provides guidance to agency's when they suspect a false statement has been made or false documentation has been provided during the homestudy process. The rule outlines the steps the agency must take when falsification occurs.

Rule 5101:2-33-70 protects the best interest of child and families being served by ensuring that only individuals with a need have access to the Statewide automated child welfare information system which contains sensitive and confidential information. It provides guidance to agencies on who may be granted that access.

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

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe and timely 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

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.

There were comments received on www.ohiorulereview.org during the public posting period regarding clarification on wording in rule 5101:2-33-03 and 5101:2-33-11. There were also comments on wording clarification and redundancy in rule 5101:2-33-70. The PCSAO legislative committee reviewed the rules and provided no input. There were no additional public comments made on the rule package.

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

There were comments received on www.ohiorulereview.org during the pre-clearance posting period that were reviewed. Comments received during the public posting period on www.ohiorulereview.org regarding clarification on wording in rule 5101:2-33-03 and 5101:2-33-11. There were also comments on wording clarification and redundancy in rule 5101:2-33-70.

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The comments made during this period had no impact on the initial draft. The rules went through the clearance process from 9/24/20 to 10/8/20 and received no comments.

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 these rules as 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.*

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 being placed and all families that receive services.

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

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues.

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 (PFOF) regional teams have also been developed to offer technical assistance and improve consistency statewide. All request

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for access to SACWIS are reviewed by Office Information Systems. MEPA is a federal law and instances of non-compliance can be met with financial consequences for the state.

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 5101:2-33 contain administrative requirements for agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

The nationwide average salary for a case worker is \$46,042 or \$22.13/hour per the employment website, www.indeed.com.

5101:2-33-03 --The timeframes involved include providing documentation of the right to file a complaint along with timeframes provided in the event that a complaint is filed. Once an individual makes an inquiry about becoming a foster or adoptive parent the agency has seven day to provide the written procedure to file a complaint involving race, color or national origin. The complainant is required to file a complaint with the agency, or ODJFS-Bureau of Civils Rights (ODJFS-BCR). Within two year from the date of the occurrence or from learning about the occurrence of discrimination. The ODJFS-BCR has 120 days to make any recommendations regarding the complaint. The cost incurred would relate to the time staff from the agency use to send the ODJFS-BCR the complaint, which would be less than one hour at an average hourly rate of \$22.13.

5101:2-33-11—The timeframes involve gathering information to review and update their foster and/or adoption requirement plan with SACWIS annually by June 30th. The cost incurred would relate to the time staff from the agency use to review the plan and make any needed changes that could vary depending on the changes made. This plan in already a administrative requirement, so reviewing the plan or making change could take 1-5 hours depending on edits, for a total of \$22.13-\$110.65.

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5101:2-33-13 —The timeframes involve the agency making their agency administrator aware of any falsification that occurs regarding the homestudy process. Additionally, if there is a child placed in the home the agency with custody of the child must be notified with 24 hours of the administrator being notified. All other timeframes involved the individual(s) who engaged in the falsification. The time spent completing the investigation will vary depending on the subject of the investigation. The time incurred may include travel time, the staff may spend 2-10 hours depending on gathering information, completing interviews, and documenting the information gathered. The total cost may average \$44.26-\$221.30.

5101:2-33-70 The timeframes involve the actives performed to obtain access to the Statewide automated child welfare information system. The timeframe involved completing a form and requesting access which would be less than one hour at an average hourly rate of \$22.13.

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

The rules protecting the rights of potential and current foster and adoptive parents. They also ensure that placement is not delayed due to discrimination based upon race, color, and national origin. Ensuring that homestudies are truthful and accurate assist agencies in making safe placements for children. Guidance about who may access the Statewide Automated Child Welfare Information system (SACWIS) and the use of information contained in the system is necessary for agency administrative functioning.

Regulatory Flexibility

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

No, alternative means of compliance based on agency size does comport with the subject matter and context of these rules.

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 rules 5101:2-33-03, 5101:2-33-13, there are no fines or civil penalties for non-compliance other than the potential loss of adoption homestudy approval.

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Rule 5101:2-33-11 implements the Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by Section 1808 of the Small Business Job Protection Act of 1996, Aug. 20, 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI). States that are determined to be out of compliance will be involved in a corrective action plan. The penalties imposed by the statute are graduated and vary according to the population of the state and the frequency and duration of noncompliance.

Rule 5101:2-33-70, misuse or unauthorized use of the confidential information housed within the Statewide Automated Child Welfare Information System has criminal penalties listed in section 5101.99 of the ORC and administrative penalties for Public Children Services Agencies.

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



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: November 24, 2020

RE: **CSI Review – Adoption and Multiethnic Placement Act Rules (OAC 5101:2-33-03, 5101:2-33-11, 5101:2-33-13, and 5101:2-33-70)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office’s comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of four amended rules proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on October 20, 2020, and the public comment period was held open through October 27, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 20, 2020.

Ohio Administrative Code (OAC) Chapter 5101:2-33 establishes administrative requirements for adoption agencies. OAC 5101:2-33-03 describes the procedures for agencies when receiving a complaint of discrimination. The rule is amended to remove revision dates for the various forms referenced in the rule. OAC 5101:2-33-11 establishes administrative requirements concerning the Multiethnic Placement Act (MEPA) and is amended to remove requirements for completing a MEPA Biennial Comprehensive Self-Assessment and to include an annual review of the foster care and adoption recruitment plan through the Statewide Automated Child Welfare Information System (SACWIS). OAC 5101:2-33-13 establishes procedures for an agency when it receives false statements or documents and is amended to replace the term “adoptive parent” with “adoptive

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family.” OAC 5101:2-33-70 concerns agency access to SACWIS and is amended to remove redundant access requirements and to permit “30 Days to Family” specialists to access the SACWIS.

During early stakeholder outreach, ODJFS sent the rules to relevant stakeholders for feedback. During this time, ODJFS received comments that requested clarification of rule language, which ODJFS provided. No comments were received during the CSI public comment period.

The business community impacted by these rules includes public and private adoption agencies operating in Ohio. The adverse impact is primarily the administrative effort required by the rules, including providing documentation, completing annual reviews, investigating false submissions, and accessing the SACWIS. ODJFS notes in the BIA that adherence to the rule requirements is necessary to maintain agency certification.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 03/25/2021 2:03 PM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-33

OAC rule 5101:2-33-03 "Procedure for complaints of alleged discriminatory acts, policies or practices in the foster care or adoption process that involve race, color or national origin"

OAC rule 5101:2-33-11 "Multiethnic Placement Act (MEPA) agency administrative requirements"

OAC rule 5101:2-33-13 "Administrative procedures for falsification in adoption"

OAC rule 5101:2-33-70 "Statewide automated child welfare information system (SACWIS) access"

DATE: December 1, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

30 East Broad Street
Columbus, OH 43215
jfs.ohio.gov

This institution is an equal opportunity provider and employer.

5101:2-33-13

Administrative procedures for falsification in adoption.

- (A) If the agency working with the family suspects that a false statement or false document was knowingly made or submitted during the homestudy process or after the homestudy was approved, the worker shall report the information to the agency administrator or designee within three days of the initial determination of possible falsification. The written statement shall include, but is not limited to:
- (1) The original document completed by the applicant, or written documentation of the false statement provided by the applicant or adoptive ~~parent~~family.
 - (2) Documentation verifying the information or document is knowingly false.
- (B) If there is a child placed in the home who has not yet finalized an adoption, then the agency shall, within twenty-four hours of the administrator or designee receiving the written statement mentioned in paragraph (A) of this rule, determine if there is probable cause related to the adoptive child's safety and well-being to warrant the removal of the child from the home until the investigation is completed.
- (C) If the agency conducting the investigation is not the agency with custody of the child, the agency shall notify the custodial agency within twenty-four hours of administrator or designee receiving the written statement mentioned in paragraph (A) of this rule of the concerns related to the falsification.
- (D) Within ten days of the administrator or designee receiving the written statement described in paragraph (A) of this rule, the agency shall send a notification letter to the adoptive applicant or approved adoptive family, via certified mail, indicating that the information submitted to the agency has been determined to be knowingly false. The notice shall include the following:
- (1) Date the notice was mailed.
 - (2) A copy of the documentation alleged to be knowingly falsified, as well as a written explanation of the falsification.
 - (3) A statement that the agency is required to notify the county prosecutor in cases in which it has been determined the applicant or family made knowingly false statements, pursuant to section 2921.13 of the Revised Code.
 - (4) A statement indicating the homestudy process will discontinue because the agency has probable cause to believe a false statement or document was knowingly provided.
 - (5) If the homestudy process has already been completed, then the agency shall include a statement that includes the following:

- (a) The agency will not present the family at a matching conference, pursuant to rule 5101:2-48-16 of the Administrative Code if it is determined a false statement or document was knowingly provided.
 - (b) The agency will not release a homestudy for sharing or transferring, pursuant to rule 5101:2-48-19 of the Administrative Code if it is determined a false statement or document was knowingly provided.
 - (c) A homestudy will not be filed with the court for finalization purposes pursuant to section 3107.031 of the Revised Code if it is determined a false statement or document was knowingly provided.
- (6) A statement that the adoptive applicant or adoptive parentfamily has the right to respond to the allegation of falsification.
- (7) A statement that the adoptive applicant or adoptive parentfamily has ten days from the date they receive the notification letter to respond to the agency with documentation that the allegation is unfounded and that the statements or documents were not knowingly falsified.
- (8) If the adoptive homestudy is in the process, a statement that if the applicant fails to respond to the agency within ten days of the receipt of the notification letter then the application to adopt is considered withdrawn and the refusal to respond to the allegation has resulted in the termination of the homestudy process by voluntary withdrawal.
- (9) If the adoptive homestudy has been approved, a statement that if the adoptive parentfamily fails to respond to the agency within ten days of the receipt of the notification letter then the refusal to respond to the allegation will result in the expiration of the adoption homestudy approval at the end of the current approval span.
- (E) If the applicant or adoptive parentfamily fails to respond to the agency within ten days of the date of receipt pursuant to paragraph (D) of this rule, the agency shall close the adoption homestudy as if the adoptive applicant or adoptive parentfamily has voluntarily withdrawn from the homestudy process.
- (F) If the applicant or adoptive family responds within the ten day timeframe with the documentation required in paragraph (D)(7) of this rule, then the agency shall conduct an internal investigation that includes the following:
- (1) A review of the information received from the adoptive applicant or family.
 - (2) A face to face visit with the adoptive applicant(s) or adoptive family.

- (3) An interview with any other relevant witnesses, if applicable.
- (G) The final investigative report shall be completed and mailed to the adoptive applicant no later than thirty days after the receipt of the adoptive applicant's or adoptive family's response to the allegation.
- (1) If unanticipated circumstances require additional time to complete the investigation or issue the report, the agency shall notify the applicant or adoptive family of the need for more time and that an extension of an additional fourteen days is needed.
 - (2) The extension shall be documented in the adoptive family's record.
- (H) The investigative report shall include the following:
- (1) An explanation of the allegation.
 - (2) Any background information deemed relevant by the agency.
 - (3) The results of the investigation, including whether probable cause was found to indicate the applicant or adoptive ~~parent~~family made knowingly false statements.
 - (4) Any action steps to be taken by the applicant, adoptive ~~parent~~family, or the agency as a result of the investigation.
- (I) If the final investigative report concludes that the information or documentation was knowingly falsified, the agency shall do the following:
- (1) Forward a copy of the investigative report to the county prosecutor's office where the adoptive applicant or adoptive ~~parent~~family lives.
 - (2) If the adoptive applicant was still in the homestudy process, the agency shall close the adoption homestudy as if the applicant has voluntarily withdrawn from the homestudy process.
 - (3) If the adoptive homestudy was approved prior to the investigation of falsification, then the following limitations are in place:
 - (a) The adoption homestudy shall not be presented at any matching conference, pursuant to rule 5101:2-48-16 of the Administrative Code.

- (b) The adoption homestudy shall not be released to another agency for sharing or transferring purposes, pursuant to rule 5101:2-48-19 of the Administrative Code.
 - (c) The adoption homestudy shall not be filed with the court for finalization purposes pursuant to section 3107.031 of the Revised Code.
 - (d) The adoption homestudy approval shall expire at the end of the current approval span.
- (J) If the final investigative report concludes that there was no falsification made by the applicant, the agency shall:
- (1) Resume the homestudy process if the applicant chooses to proceed.
 - (2) Complete the homestudy within one hundred eighty days from the date the investigative report was completed.
- (K) Any documentation resulting from the requirements of this rule shall be maintained in the record of the adoptive applicant or adoptive ~~parent~~family.

Effective: 4/12/2021
Five Year Review (FYR) Dates: 12/2/2020 and 04/12/2026

CERTIFIED ELECTRONICALLY

Certification

03/25/2021

Date

Promulgated Under: 119.03
Statutory Authority: 3107.033
Rule Amplifies: 3107.01, 3107.031
Prior Effective Dates: 12/11/2006, 03/01/2010, 10/01/2015



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):

Adoption and MEPA Rules

Rule Number(s): 5101:2-33-03, 5101:2-33-11, 5101:2-33-13, 5101:2-33-70

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/ 4 rules (FYR? yes)

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 5101:2-33-03 entitled "Procedure for complaints of alleged discriminatory acts, policies or practices in the foster care or adoption process that involve race, color or national origin," details the procedure that each public children services agency (PCSA), private child placing agency (PCPA), and private noncustodial agency (PNA) shall follow when a complaint of discrimination is filed. The revision dates were removed throughout.

OAC rule 5101:2-33-11, entitled "Multiethnic Placement Act (MEPA) agency administrative requirements, " details the responsibilities of the public children services agency and private child placing agency to designate MEPA monitors and the duties of the MEPA monitor. The rule also details the annual requirements of each private non-custodial agency, public children services agency, and private child placing agency to submit data and complete a Biennial Comprehensive Assessment. Paragraph (D) and (E) were deleted, as the requirements were obsoleted per Procedure Letter No. 325 in January 2018. The requirement for agencies to review and update their foster care and adoption recruitment plans annually

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was added. Wording in paragraph (F) was clarified. The revision dates were removed throughout.

OAC rule 5101:2-33-13, entitled "Administrative procedures for falsification in adoption," provides guidance to agencies on the procedures that must be followed if the agency suspects a false statement or false documents has knowingly been submitted during the homestudy process. The rule details the steps to be taken if this is discovered before and after approval of the homestudy. Adoptive parent was changed to adoptive family throughout the rule for consistency.

OAC rule 5101:2-33-70, entitled "Statewide automated child welfare information system (SACWIS) access," provides guidance to agencies on how to obtain access and on what information is to be entered into SACWIS. Additionally, the rule states who may be granted access to SACWIS and the responsibility of those with access to maintain confidentially of the information within SACWIS. Wording in paragraph (E) was clarified. Paragraph (F) was removed due to redundancy, as a result lettering was changed as needed throughout the rule. 30 Days to Family specialist were added to the list of staff that could be granted access to SACWIS. There was a correction to a paragraph referenced from another rule. The revision dates were removed throughout.

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 5101:2-33-03	ORC 5101.141, 5103.03, 5153.16
Rule 5101:2-33-11	ORC 5101.141, 5103.03, 5153.166
Rule 5101:2-33-13	ORC 3107.033
Rule 5101:2-33-70	ORC 5101.134

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.

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Rule 5101:2-33-11 does implement the Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by Section 1808 of the Small Business Job Protection Act of 1996, Aug. 20, 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI).

The federal law prohibits delay or denial of the placement of a child for adoption or foster care on the basis of race, color, or national origin of the adoptive or foster parent, or the child involved. Furthermore, child welfare services programs must ensure diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed. States are to include a provision for diligent recruitment in their title IV-B State Plans. The diligent recruitment requirement in no way mitigates the prohibition on denial or delay of placement based on race, color or national origin.

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

This is not applicable to rules 5101:2-33-03, 5101:2-33-13, nor 5101:2-33-70 as they do not implement a requirement of Federal Law, nor do they or rule 5101:2-33-11 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, which are 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 5101:2-33-03 provides a procedure for agencies to follow in the event an individual file a complaint of discrimination involving race, color, or national origin. The rule establishes timelines and outlines investigative steps. This rule ensures that foster and adoptive parents are not discriminated against based on race, color, or national origin, which is in the best interest of children.

Rule 5101:2-33-11 provides guidance to agencies on adhering to the federal requirements of the Multiethnic Placement Act. Additionally, the rule details the annual requirement of Public Children Services Agency to review and update their foster and/or recruitment plan within SACWIS by June 30th. This rule helps to ensure that foster care and adoptive placements are not delayed or denied based on race, color, or national origin, which is in the best interest of children.

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Rule 5101:2-33-13 provides guidance to agency's when they suspect a false statement has been made or false documentation has been provided during the homestudy process. The rule outlines the steps the agency must take when falsification occurs.

Rule 5101:2-33-70 protects the best interest of child and families being served by ensuring that only individuals with a need have access to the Statewide automated child welfare information system which contains sensitive and confidential information. It provides guidance to agencies on who may be granted that access.

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

The success of these regulations will be measured against the criteria specific to the content in each rule in assuring the safe and timely 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

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.

There were comments received on www.ohiorulereview.org during the public posting period regarding clarification on wording in rule 5101:2-33-03 and 5101:2-33-11. There were also comments on wording clarification and redundancy in rule 5101:2-33-70. The PCSAO legislative committee reviewed the rules and provided no input. There were no additional public comments made on the rule package.

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

There were comments received on www.ohiorulereview.org during the pre-clearance posting period that were reviewed. Comments received during the public posting period on www.ohiorulereview.org regarding clarification on wording in rule 5101:2-33-03 and 5101:2-33-11. There were also comments on wording clarification and redundancy in rule 5101:2-33-70.

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The comments made during this period had no impact on the initial draft. The rules went through the clearance process from 9/24/20 to 10/8/20 and received no comments.

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 these rules as 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.*

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 being placed and all families that receive services.

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

There are no duplications as the rules are specific to adoption agencies and no other rules address these specific issues.

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 (PFOF) regional teams have also been developed to offer technical assistance and improve consistency statewide. All request

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for access to SACWIS are reviewed by Office Information Systems. MEPA is a federal law and instances of non-compliance can be met with financial consequences for the state.

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 5101:2-33 contain administrative requirements for agencies that include public and private agencies. Requirements must be met to obtain and/or maintain certification.

The nationwide average salary for a case worker is \$46,042 or \$22.13/hour per the employment website, www.indeed.com.

5101:2-33-03 --The timeframes involved include providing documentation of the right to file a complaint along with timeframes provided in the event that a complaint is filed. Once an individual makes an inquiry about becoming a foster or adoptive parent the agency has seven day to provide the written procedure to file a complaint involving race, color or national origin. The complainant is required to file a complaint with the agency, or ODJFS-Bureau of Civils Rights (ODJFS-BCR). Within two year from the date of the occurrence or from learning about the occurrence of discrimination. The ODJFS-BCR has 120 days to make any recommendations regarding the complaint. The cost incurred would relate to the time staff from the agency use to send the ODJFS-BCR the complaint, which would be less than one hour at an average hourly rate of \$22.13.

5101:2-33-11—The timeframes involve gathering information to review and update their foster and/or adoption requirement plan with SACWIS annually by June 30th. The cost incurred would relate to the time staff from the agency use to review the plan and make any needed changes that could vary depending on the changes made. This plan in already a administrative requirement, so reviewing the plan or making change could take 1-5 hours depending on edits, for a total of \$22.13-\$110.65.

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5101:2-33-13 —The timeframes involve the agency making their agency administrator aware of any falsification that occurs regarding the homestudy process. Additionally, if there is a child placed in the home the agency with custody of the child must be notified with 24 hours of the administrator being notified. All other timeframes involved the individual(s) who engaged in the falsification. The time spent completing the investigation will vary depending on the subject of the investigation. The time incurred may include travel time, the staff may spend 2-10 hours depending on gathering information, completing interviews, and documenting the information gathered. The total cost may average \$44.26-\$221.30.

5101:2-33-70 The timeframes involve the actives performed to obtain access to the Statewide automated child welfare information system. The timeframe involved completing a form and requesting access which would be less than one hour at an average hourly rate of \$22.13.

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

The rules protecting the rights of potential and current foster and adoptive parents. They also ensure that placement is not delayed due to discrimination based upon race, color, and national origin. Ensuring that homestudies are truthful and accurate assist agencies in making safe placements for children. Guidance about who may access the Statewide Automated Child Welfare Information system (SACWIS) and the use of information contained in the system is necessary for agency administrative functioning.

Regulatory Flexibility

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

No, alternative means of compliance based on agency size does comport with the subject matter and context of these rules.

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 rules 5101:2-33-03, 5101:2-33-13, there are no fines or civil penalties for non-compliance other than the potential loss of adoption homestudy approval.

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Rule 5101:2-33-11 implements the Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by Section 1808 of the Small Business Job Protection Act of 1996, Aug. 20, 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI). States that are determined to be out of compliance will be involved in a corrective action plan. The penalties imposed by the statute are graduated and vary according to the population of the state and the frequency and duration of noncompliance.

Rule 5101:2-33-70, misuse or unauthorized use of the confidential information housed within the Statewide Automated Child Welfare Information System has criminal penalties listed in section 5101.99 of the ORC and administrative penalties for Public Children Services Agencies.

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



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: November 24, 2020

RE: **CSI Review – Adoption and Multiethnic Placement Act Rules (OAC 5101:2-33-03, 5101:2-33-11, 5101:2-33-13, and 5101:2-33-70)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office’s comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of four amended rules proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on October 20, 2020, and the public comment period was held open through October 27, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 20, 2020.

Ohio Administrative Code (OAC) Chapter 5101:2-33 establishes administrative requirements for adoption agencies. OAC 5101:2-33-03 describes the procedures for agencies when receiving a complaint of discrimination. The rule is amended to remove revision dates for the various forms referenced in the rule. OAC 5101:2-33-11 establishes administrative requirements concerning the Multiethnic Placement Act (MEPA) and is amended to remove requirements for completing a MEPA Biennial Comprehensive Self-Assessment and to include an annual review of the foster care and adoption recruitment plan through the Statewide Automated Child Welfare Information System (SACWIS). OAC 5101:2-33-13 establishes procedures for an agency when it receives false statements or documents and is amended to replace the term “adoptive parent” with “adoptive

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family.” OAC 5101:2-33-70 concerns agency access to SACWIS and is amended to remove redundant access requirements and to permit “30 Days to Family” specialists to access the SACWIS.

During early stakeholder outreach, ODJFS sent the rules to relevant stakeholders for feedback. During this time, ODJFS received comments that requested clarification of rule language, which ODJFS provided. No comments were received during the CSI public comment period.

The business community impacted by these rules includes public and private adoption agencies operating in Ohio. The adverse impact is primarily the administrative effort required by the rules, including providing documentation, completing annual reviews, investigating false submissions, and accessing the SACWIS. ODJFS notes in the BIA that adherence to the rule requirements is necessary to maintain agency certification.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 03/25/2021 2:03 PM

Mike DeWine, Governor

Kimberly Hall, Director

TO: Jacob Ritzenthaler, Regulatory Policy Advocate
CC: Carrie Kuruc, Director of the Common Sense Initiative Office

FROM: Christine Dobrovich, Bureau Chief
Office of Families and Children

RE: CSI Review: OFC: Chapters 5101:2-33

OAC rule 5101:2-33-03 "Procedure for complaints of alleged discriminatory acts, policies or practices in the foster care or adoption process that involve race, color or national origin"

OAC rule 5101:2-33-11 "Multiethnic Placement Act (MEPA) agency administrative requirements"

OAC rule 5101:2-33-13 "Administrative procedures for falsification in adoption"

OAC rule 5101:2-33-70 "Statewide automated child welfare information system (SACWIS) access"

DATE: December 1, 2020

Thank you for your recent review of the referenced OAC rules. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

30 East Broad Street
Columbus, OH 43215
jfs.ohio.gov

This institution is an equal opportunity provider and employer.

5101:2-33-70 **Statewide automated child welfare information system (SACWIS) access.**

- (A) The statewide automated child welfare information system (SACWIS) shall be established and maintained in accordance with the requirements of 42 U.S.C. 674 (a)(3)(C) (2008). Access to and use of data in SACWIS shall be limited to the extent necessary to carry out the child welfare program under Title IV-B of the Social Security Act of 1967, P.L. 109-288, 120 Stat. 1244 (2006), the Child Abuse Prevention and Treatment Act, 110 Stat. 3064 (1996), 42 U.S.C. 5101, Title IV-E of the Social Security Act of 1967, 110 Stat. 2166 (1996), 42 U.S.C. 670, and Title XX of the Social Security Act, 124 Stat. 803 (2010), 42 U.S.C. 1397.
- (B) The data in SACWIS is confidential and access to any child welfare information shall be pursuant to this rule or section 5101.132 of the Revised Code.
- (C) The data in SACWIS is confidential and release of any child welfare information shall be pursuant to rule 5101:2-33-21 of the Administrative Code and sections 5101.13 to 5101.134 of the Revised Code.
- (D) Personnel having access to SACWIS shall be limited to those persons who have been trained in the confidentiality requirements of SACWIS, who are informed of all penalties, who have been trained in security procedures, and who have signed the JFS 07078 "Code of Responsibility" ~~(rev. 6/2009)~~.
- (E) The public children services agencies (PCSA) shall monitor access and use to and use of SACWIS to prevent and identify unauthorized use of SACWIS.
- ~~(F) The PCSA shall ensure that all personnel who may have access to or be required to use SACWIS are informed of applicable requirements and penalties and have been trained in security procedures.~~
- ~~(G)~~(F) In addition to the criminal penalty provision listed in section 5101.99 of the Revised Code, the PCSA shall have administrative penalties, up to and including dismissal from employment, for unauthorized access to or disclosure or use of data in SACWIS.
- ~~(H)~~(G) The PCSA shall enter applicable child welfare information required in this rule and/or by federal or state statute, regulation, or rule directly into SACWIS. Failure to enter such child welfare information may result in sanctions in accordance with section 5101.24 of the Revised Code or withholding of state and/or federal funding.
- ~~(H)~~(H) Each PCSA shall enter children services data into SACWIS including, but not limited to:
- (1) Information listed in rule 5101:2-33-23 of the Administrative Code.

- (2) Intake and assessment/investigation including assessment tools.
- (3) Case notes and dictation concerning the activities and statements of persons involved in the case, describing the activity or statement, naming the persons involved, and stating the date of the occurrence. Case notes or dictation shall be prepared by or under the supervision of the staff member with the most direct knowledge of the occurrence. Opinions of PCSA staff and others included in case notes or dictation shall be identified as such.
- (4) Case status information.
- (5) Case plan, case review(s), court information and services, including documentation of verbal, written, or electronic referrals and the provision of services on behalf of children and families served by the PCSA.
- (6) A summary of reports received from service providers, including oral, written or electronic summaries, and the dates when services were received.
- (7) Custody and placement information.
- (8) Adoption information including recruitment activities, pre-adoptive staffing, or matching conference information.
- (9) Provider record including homestudies, recruitment plans and events.
- (10) Child welfare related agency administrative and training activities.
- (11) Financial eligibility and re-determinations, record reimbursement and actual cost information, and financial information to support accounts payable to counties and providers.
- (12) Exchange data with support enforcement tracking system (SETS), medicaid information technology system (MITS), and client registry information system-enhanced (CRIS-E) to determine eligibility and the central accounting system (CAS), auditor of state (AOS) to disburse payments, Ohio benefits worker portal (OBWP) and any federally mandated exchange.
- (13) Data as required by section 479 of the Social Security Act of 1967 (42 U.S.C. 679) (2014); 45 C.F.R. parts 1355 (2012), 1356 (2012), and 1357 (2001) for the adoption and foster care analysis and reporting system (AFCARS); national child abuse and neglect data system (NCANDS); child and family services reviews (CFSR); child protection and oversight evaluation (CPOE) system; national youth transition database (NYTD) and Multiethnic Placement Act, Oct. 20, 1994, P.L. 103-382, as amended by section 1808 of the Small Business

Job Protection Act of 1996, Aug. 20, 1996, P.L. 104-188 (MEPA), and the Civil Rights Act of 1964 (Title VI).

- (14) Any other data identified by the department as necessary to reflect current case activities including, but not limited to, case, services, person, placement resource or licensing information, financial information or agency status.

~~(I)~~(I) The PCSA shall enter and update information in SACWIS each work day or as information becomes available, pursuant to paragraphs ~~(H)~~(G) and ~~(H)~~(H) of this rule.

~~(K)~~(J) Private child placing agencies (PCPAs) and private non-custodial agencies (PNAs) that have access to SACWIS shall enter the following information into SACWIS. The PCPA and PNA granting any PCPA or PNA personnel access to SACWIS shall follow the same process as a PCSA in paragraphs (A) to ~~(G)~~(F) of this rule.

- (1) Information necessary for recommending licensure of foster homes and approval of adoptive homes.
- (2) Information necessary for submitting training reimbursement requests.
- (3) Provider record information including homestudies and recruitment plans.
- (4) Any other data identified by the department as necessary to reflect current provider activities including, but not limited to:
 - (a) Services.
 - (b) Person.
 - (c) Licensing information. or
 - (d) Financial information.

~~(L)~~(K) Any juvenile court, that is a sub grantee with ODJFS for the purposes of Title IV-E financial reimbursement, shall enter information into SACWIS regarding the provision of services to any child who is at risk of child abuse and neglect and Title IV-E financial reimbursement is being requested. The juvenile court, that is a sub grantee with ODJFS for the purposes of Title IV-E financial reimbursement, granting any juvenile court personnel access to SACWIS for the purposes of Title IV-E financial reimbursement shall do so in accordance with paragraphs (A) to ~~(G)~~(F) of this rule.

- ~~(M)~~(L) A prosecuting attorney, who represents a PCSA, shall be permitted SACWIS access if directly connected with assessment, investigation, or services regarding a child or family. The PCSA shall do so in accordance with paragraphs (A) to ~~(G)~~(F) of this rule.
- ~~(N)~~(M) If a PCSA is utilizing a "Wendy's Wonderful Kids" (WWK) recruiter employed by another PCSA, PCPA, or PNA, the PCSA responsible for the child's case may permit the WWK recruiter direct SACWIS access to review and record information related to any child or sibling group being provided services by the WWK recruiter. The PCSA shall do so in accordance with paragraphs (A) to ~~(G)~~(F) of this rule.
- (N) If a PCSA is implementing "30 Days to Family", the PCSA may permit the "30 Days to Family" staff to have direct SACWIS access to review and record information related to any child or sibling group eligible for, or being provided services through "30 Days to Family". The PCSA will do so in accordance with paragraphs (A) to (F) of this rule.
- (O) If a PCSA grants a PCSA intern access to SACWIS, the PCSA shall do so in accordance with paragraphs (A) to ~~(G)~~(F) of this rule. Any case record information recorded into SACWIS by an intern shall be reviewed and approved by the PCSA director or designee.
- (P) No direct access to SACWIS or any other state of Ohio database shall be requested by or on behalf of, nor approved for or granted to, any researcher conducting research under paragraph ~~(R)~~(R) of rule 5101:2-33-21 of the Administrative Code.
- (Q) The term "access to SACWIS", and any variation thereof, as used in this rule and in Chapter 5101:2-33 of the Administrative Code, is not synonymous with "disseminate all information" as used in rule 5101:2-33-21 of the Administrative Code. SACWIS access shall only be granted if expressly permitted by state law or rule.

Effective: 4/12/2021
Five Year Review (FYR) Dates: 12/2/2020 and 04/12/2026

CERTIFIED ELECTRONICALLY

Certification

03/25/2021

Date

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