

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5101:2-5-18

Rule Type: Amendment

Rule Title/Tagline: Waivers and variances.

Agency Name: Department of Job and Family Services

Division: Division of Social Services

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 9/11/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5103.02, 5103.03
5. **What statute(s) does the rule implement or amplify?** 5103.02, 5103.03 , 5103.54
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule is being proposed for amendment to implement a continuous certification for foster care agencies and for the five-year review.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule provides guidance to agencies on how to request foster home and agency waivers. Paragraph (B) was amended to remove the reference to a certification period.

9. **Does the rule incorporate material by reference? Yes**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(a).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

This rule incorporates one or more references to a form or a digital application into which data is entered. This question is not applicable to any incorporation by reference to forms or digital data applications because such reference is exempt from compliance with RC 121.75 to 121.74 pursuant to RC 121.75(B)(4).

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

No expected fiscal effects on current or future budgets.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

No new costs.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not applicable.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

Certification and recertification of an agency by the Ohio Department of Job and Family Services is contingent, in part, upon compliance with this rule.

- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes

Lack of compliance can result in revocation of an agency's certification or denial of recertification.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

If an agency chooses to request a waiver, the agency must complete the required process and submit the information to DCY.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 13

(A) The refusal of ODJFS to grant a waiver, in whole or in part, shall be final and shall not be construed as creating any rights to a hearing under Chapter 119. of the Revised Code.

(A) Waivers shall only be requested, and will be considered on a case by case basis, for the following:

(B) A request for a waiver shall be written and time limited.

(B) A waiver request shall include sufficient information, including the time period for which the waiver is requested.

(B) The time limit of a waiver shall not exceed the expiration date of the current certificate.

(C) A request for a waiver of the requirements or prohibitions imposed by Chapters 5101:2-1, 5101:2-5, 5101:2-9, 5101:2-39, and 5101:2-42 of the Administrative Code on an agency's administration shall be written using the JFS 01376 "Rule Waiver Request for Agencies, CRCs and Group Homes" and submitted to the appropriate ODJFS field office.

(D) A request for a waiver of the requirements or prohibitions imposed upon a foster home or a foster caregiver by Chapters 5101:2-1, 5101:2-7, 5101:2-39, and 5101:2-42, of the Administrative Code and related foster home provisions of Chapter 5101:2-5 of the Administrative Code shall be requested through the statewide automated child welfare information system (SACWIS).

(E) The approval of a waiver request by ODJFS shall not be construed as constituting precedence for the approval of any other waiver request or the renewal of an existing waiver.

(F) Waiver requests that have been approved prior to the effective date of this rule shall remain in effect until the waiver expires unless the terms or

conditions of the waiver are violated or otherwise become nullified by a situation or by a change in the applicable Administrative Code rule.

(G) Effective October 1, 2011, no variances shall be approved.

(H) Variance requests that have been approved prior to October 1, 2011 shall remain in effect unless the terms or conditions of a variance are violated or otherwise become nullified by a situation or by a change in the applicable Administrative Code rule.

(H) If the variance is nullified, it shall be rescinded. ODJFS has sole discretion in the rescission of a variance.

(H) The rescission of a variance shall not be construed as creating any rights to a hearing under Chapter 119. of the Revised Code.

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable