



Opportunities for Ohioans with Disabilities

Mike DeWine
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Bureau of Services for the Visually Impaired
Bureau of Vocational Rehabilitation
Division of Disability Determination

Guide to Public Participation in the Rule-Making Process

Mission and Structure of the Agency

The mission of the Opportunities for Ohioans with Disabilities (OOD) Agency is “Empowering Ohioans with disabilities through employment, disability determinations, and independence.”

OOD’s work is accomplished through its Bureau of Vocational Rehabilitation (BVR), Bureau of Services for the Visually Impaired (BSVI), and Division of Disability Determination (DDD). A fourth area is the Division of Employer and Innovation Services (EIS), which is responsible for establishing and maintaining partnerships with employers. Additional information on OOD can be found using the following link: <https://ood.ohio.gov/wps/portal/gov/ood/about-us>.

Introduction

This guide is intended to assist members of the public who participate, or may wish to participate, in the rule-making process in which OOD provides services to the public. The Ohio Revised Code permits OOD to adopt rules in accordance with Chapter 119. of the Revised Code.

Rules are to clarify and strengthen the duties and responsibilities the state of Ohio has charged OOD with performing. Rules have the force and effect of law. Rules cannot change the provisions of or exceed the scope of authorization in the Ohio Revised Code. OOD’s rules concerning vocational rehabilitation can be found in Chapter 3304 of the Ohio Administrative Code using the following link: <http://codes.ohio.gov/oac/3304>. OOD’s rules concerning licensed blind vendors can be found in 3304:1 of the Ohio Administrative Code using the following link: <http://codes.ohio.gov/oac/3304%3A1-21>.

This guide is required by Ohio Revised Code Section 119.0311 and is available in printed format from OOD or at <http://www.registerofohio.state.oh.us/>.

Rule Making Process

Prior to the initiation of the formal rules process, OOD must decide whether a new rule or a change to an existing rule needs to be proposed. OOD will typically decide to go through the rule making process due to the following reasons:

- OOD is required to write rules to assist in the administration of a new law or regulation;



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- OOD staff and the public identify an issue that requires OOD to address the issue through an administrative rule; and
- Chapter 119. of the Revised Code requires that each state agency review each of its rules every five years. In any year, 20 percent of the Board's rules are scheduled to be reviewed, and each must then go through the formal rule-making process.

The main steps in the OOD rule-making process are as follows:

Step 1: Rule Development

OOD staff develop a draft rule for internal review. OOD may also invite interested parties from outside the agency – such as representatives from providers, associations, and advocacy groups – to review and comment on the draft rule. OOD also seeks the advice of the OOD Council for vocational rehabilitation rules and the active participation of the Ohio Vendors Representative Committee for Business Enterprise rules.

Once the Director of OOD approves the rule for filing, OOD will determine whether to file the rule first with the Common Sense Initiative, or directly with the Joint Committee on Agency Rule Review.

Step 2: Common Sense Initiative (CSI)

OOD evaluates each draft rule to determine whether the rule must be reviewed by CSI, operated by the Lt. Governor's Office. Review by CSI is required for all rules that meet at least one of the following adverse business impact criteria:

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business;
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action, for failure to comply with its terms;
- Requires specific expenditures or the report of information as a condition of compliance; or
- Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

OOD will submit a “business impact analysis” (BIA) and the proposed rule with CSI. Active rule package submissions with CSI may be reviewed using the following link:

<https://governor.ohio.gov/wps/portal/gov/governor/priorities/common-sense-initiative/welcome>. OOD also posts the BIA and rule on its website using the following link:

<https://ood.ohio.gov/wps/portal/gov/ood/laws-rules-and-policies/laws-and-rules>.



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The CSI process allows anyone that may be impacted by the rule the opportunity to provide comment. CSI will provide OOD a recommendation and any public comments it has received. OOD then prepares a response to the CSI recommendation.

Step 3: Joint Committee on Agency Rule Review (JCARR)

OOD files the proposed rule with JCARR, the Secretary of State and the Legislative Service Commission. JCARR is a 10-member legislative committee. If the rule was submitted to CSI, OOD also files the BIA, CSI recommendation and OOD response with JCARR.

The proposed rule and supporting documents are posted on the Register of Ohio website at <http://www.registerofohio.state.oh.us/>. The proposed rule and supporting documents are also posted on the OOD website at: <https://ood.ohio.gov/wps/portal/gov/ood/laws-rules-and-policies/laws-and-rules>.

Step 4: Public Hearing

OOD holds a public hearing for all proposed rules filed with JCARR. This allows OOD to receive additional input on the proposed rule. OOD will issue a notice at least 30 days before the hearing and post it on the OOD website and at <http://www.registerofohio.state.oh.us/>. The notice identifies the proposed rule, and the date, time, and location of the hearing.

At the hearing, the public may present oral or written testimony on the proposed rule. The public may also submit written comments received by OOD before the hearing concludes.

After the hearing has concluded, OOD will review and consider all testimony and determine whether changes should be made to the rule. OOD may proceed without any changes, make changes by revising the rule, or withdraw the rule.

PLEASE NOTE: OOD is not required to hold a public hearing on rules that are subject to the five-year review in which no changes are made.

Step 5: JCARR Hearing

JCARR has jurisdiction over proposed rules for 65 days during which it conducts a hearing. JCARR conducts a hearing typically at the Ohio Statehouse. JCARR reviews whether the proposed rule violates any of the following:

- a. Do the rules exceed the agency's statutory authority;
- b. Do the rules conflict with an existing rule of that agency or another state agency;
- c. Do the rules conflict with legislative intent;
- d. Has the rule-making agency prepared a complete and accurate rule summary and fiscal analysis of the proposed rule, amendment, or rescission;



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e. Has the rule-making agency met the incorporation by reference standards for a text or other material as stated in ORC sections 121.71 - 121.75; and,

f. If the rule has an adverse impact on business, that the rule-making agency has demonstrated through the BIA, the CSI recommendations and the agency's memorandum of response to the CSI recommendations, that the rule's regulatory intent justifies its adverse impact on business.

Step 6: Rules Adoption

After JCARR jurisdiction has expired, OOD "final files" the rule and designates the effective date of the rule. The effective date must not be any earlier than the tenth day after it is final filed.

Public Participation

OOD values the input of the public in its rule-making process. As such, the public has many opportunities to participate in the rule-making process.

- *Initiate the discussion:* The public is encouraged to bring issues of concern to OOD's attention by submitting comments by e-mail: ood.administrativerules@ood.ohio.gov.
- *Outreach efforts:* Members of the public may comment on the rule development process by participating on an advisory group, and through participation in interested associations and advocacy groups.
- *During the CSI process:* Members of the public can submit comments to CSI when OOD posts the required business impact analysis to its website: <https://ood.ohio.gov/wps/portal/gov/ood/laws-rules-and-policies/laws-and-rules>.
- *At the public rules hearing:* Attend public hearings conducted by OOD and present oral or written testimony. Testimony may be provided in person or submitted at any time before the hearing record is closed. OOD may ask questions of a witness or may place a time limit on a witness's oral testimony to assure that all who wish to testify can be heard.
- *At the JCARR hearing:* This hearing is the final opportunity for the public to provide comments about the rules. The comments before JCARR may only address the six standards within JCARR's jurisdiction as listed above.

Conclusion

OOD relies on public input to guide its rule-making activities and encourages feedback and comments on its proposed rules. If you would like to be placed on OOD's mailing list to receive notice of all meetings, please visit: <https://ood.ohio.gov/>, then enter your e-mail address at the subscribe button at the bottom of the page, and then select your subscriptions. If you have any questions regarding the information in this guide, please contact the Division of Legal Services at ood.administrativerules@ood.ohio.gov or 614-438-1289.