

# Rule Advisory Committees Procedure

## 1. Use of Rule Advisory Committees in Child Welfare

### Overview

When an administrative rule is to be revised, developed or repealed, it is crucial to have ideas and feedback from effected parties. Generally, effected parties include department administrative staff, department field staff, community partners and clients whom will be impacted by the proposed change or have expertise directly related to the proposed change. As of January 1, 2009 the department is required to include effected parties in the development, modification or revocation of administrative rules.

Rule writers are required to assure effected parties are invited and encouraged to participate in the development, revision and revocation of administrative rules through the use of a Rule Advisory Committee (RAC). The purpose of a RAC is to:

- Assure effected parties a role in the rule revision and development process
- Gain additional perspectives of effected parties and subject experts
- Receive additional and varied feedback
- Finalize rules that will have their intended impact
- Finalize rules that meet client, provider, staff and community needs

### Procedure

When using a RAC, the rule writer must:

#### Prior to the meeting

- Identify parties (individuals or entities) effected by the proposed rule change. Use the RAC effected parties list located at I:\CW RAC\RAC member lists as a resource if needed.
- Invite both DHS and non-DHS effected parties. Consider inviting a Portland State University Partnership representative or other training resource for potential input on training and implementation.
- Notify by email the Assistant Director of any other Divisions likely to be impacted and invite the Assistant Director to send a Division representative.
- Invite a tribal representative if the rule is likely to impact any of Oregon's nine federally recognized tribes. Assure the representative can represent the interests of the specific tribe(s) likely to be impacted.
- Prepare a draft fiscal impact. The writer must complete the fiscal impact using the fiscal impact section of the Notice Worksheet.
- Assure the scheduling of the RAC meeting(s) and notice to the invitees with the necessary information, a minimum of one week prior to the scheduled meeting date. The necessary information includes:
  - The name of each person to be invited
  - The contact information for each person to be invited, including email address
  - Meeting Date
  - Meeting Time
  - Meeting Location

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- Rule writer name and telephone number
- Name and number of impacted rule. This may not be applicable for new rules.
- Statement explaining the purpose of the meeting. Identify whether the intent is to develop, revise or repeal rule.
- A copy of the administrative rule
- A copy of a draft rule, if applicable
- A copy of the draft fiscal impact (not the entire Notice Worksheet ONLY the fiscal impact section)
- Assure notice to the public is posted on the policy page of the Department website by contacting the CW webmaster, Rose Carson, [Rosalie.A.Carson@state.or.us](mailto:Rosalie.A.Carson@state.or.us), with the necessary information, a minimum of one week prior to the scheduled meeting date. The notice to the public must include:
  - Meeting Date
  - Meeting Time
  - Meeting Location
  - Rule writer name and telephone number
  - Name and number of impacted rule. This may not be applicable for new rules.
  - Statement explaining the purpose of the meeting. Identify whether the intent is to develop, revise or repeal rule.

### During the meeting

- Facilitate the RAC meeting
- Inform the committee members that DHS will consider all recommendations and suggestions. Explain that DHS is not, however, required to follow all recommendations and suggestions and may be unable to accommodate a suggestion due to legal, business or financial concerns.
- When anyone from the public attends, inform them that they may observe and not participate.
- Solicit feedback on the fiscal impact
- Consider suggesting that members solicit feedback outside of the meeting from other people who represent the same interest in order to assure the best representation of the effected party. Another meeting or mechanism may be used to share the additional feedback.
- Consider if small businesses will be adversely impacted. If so, solicit feedback from the RAC on how to mitigate the cost of compliance for small businesses.
- Assure minutes are taken
  - Minutes must be documented on the RAC minutes template (located in the I drive, RAC folder, Templates folder)
  - Minutes include the following:
    - Date of the meeting
    - Invited participants

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- Attendees, their contact information (phone number, address and email address) and affiliated organization/interest represented
- Decisions
- Action Items

### After the meeting

- Save minutes in the I drive, RAC folder, the folder of the year the RAC was convened, the policy number impacted and then within the correct sequential RAC folder. Because there may be multiple rule changes within a rule set during a year, it is important to create a RAC folder to maintain the minutes and other documentation for one RAC separate from the rest. In order to differentiate each RAC, name the folder sequentially based on which RAC was convened first. For example, RAC1 RAC2, RAC3, RAC4, etc.
- Distribute minutes to committee members.
- Track follow through with all action items.
- Document in the Notice Worksheet that a RAC was used. If there is no response to invitations to participate or no one attends the RAC meetings, do not indicate in the Notice Worksheet that a RAC was used, but document the attempts DHS made to invite members to participate.

The following must be in place for a RAC to fulfill the requirement:

- There must be more non-DHS members than DHS members on the RAC.

**Note:** Staff used to support the administrative functions of the RAC are considered staff to the meeting and are not counted toward the number of DHS administrative and field staff serving as members.

- The membership must include parties effected by the proposed rule change.
- The membership must include parties that have subject matter expertise.
- There must be a minimum of one meeting and as many meetings as necessary to assure a thoughtful process with sufficient input.
- When there are multiple meetings, the membership must remain the same throughout the entire process.

The following should be considered when using a RAC:

- Meetings can be less productive with too many participants. It is recommended to have no more than 12 committee members.
- Allowing for members to participate by telephone or V-Con can increase member participation by decreasing the time traveling to and from meetings and can also allow for increased geographic representation.

When developing or revising an administrative rule, the rule writer is required to follow the Internal Process Protocol, which includes accessing Policy Council. Because the RAC may have limited DHS field membership the writer must access policy council as many times as necessary to assure adequate input from field staff.

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Note: Policy Council feedback must include a review of the draft rule and could include questions or proposed concepts for review/feedback.

### Exceptions

#### Requesting an Exception

A rule writer may request an exception to using a RAC when developing or modifying administrative rule. Some examples of when a request for an exception may be appropriate are:

- The changes are administrative or housekeeping in nature.
- The administrative rule will not have a substantial impact on the interests of parties likely to be effected.
- The changes are statutorily required to be immediate.

All exceptions must be requested by email to the DHS rules coordinator (Kym Gasper) with “RAC Exception” in the subject line and the rule number and explanation in the body. Attach a copy of the proposed rule change to the request. Exceptions must be approved by the DHS rules coordinator.

RAC exceptions are required for all permanent rule filings, but are unnecessary when filing temporary rules.

#### Documenting an Approved Exception

When the DHS rules coordinator approves an exception to the RAC process, the rule writer must document the exception and the reason for the exception in the notice of proposed rule making.