

AGENCY FOR PERSONS WITH DISABILITIES
Statement Of Estimated Regulatory Costs (SERC)

Division: Agency for Persons with Disabilities
Board:
Rule Number: 14.001, .002, .003, .004, .0041, .0042, .0043, .005, F.A.C.
Rule Description: Qualified Organizations and Waiver Support Coordination
Contact Person: Danielle Thompson

Please remember to analyze the impact of the rule, NOT the statute, when completing this form.

A. Is the rule likely to, **directly or indirectly**, have an adverse impact on economic growth, private-sector job creation or employment, or private-sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule?

- | | | |
|--|------------------------------|--|
| 1. Is the rule likely to reduce personal income? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Is the rule likely to reduce total non-farm employment? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Is the rule likely to reduce private housing starts? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Is the rule likely to reduce visitors to Florida? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Is the rule likely to reduce wages or salaries? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 6. Is the rule likely to reduce property income? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Explanation:

Pursuant to the adoption of chapter 2020-71, Laws of Florida, the Florida Legislature requires all support coordinators to be employees of a qualified organization effective July 1, 2021. The legislative intent, as codified in section 393.0663(1), Florida Statutes (2020), was to create a systematic approach to service oversight for support coordinators to provide services to Agency for Persons with Disabilities (“Agency”) clients. This approach will ensure support coordinators have the necessary knowledge, skills, and abilities to competently provide services to Agency clients.

Section 393.0663(2)(a) requires the Agency determine whether an organization meets the necessary requirements established within section 393.0663 and the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook. Section 393.0663(2)(b) lists the requirements to be a qualified organization. Section 393.0663(3) lists the obligations of the Agency in regulating the qualified organizations. These rules implement the above statutory requirements in a manner that is clear and consistent statewide.

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The rules will not directly or indirectly have an adverse impact on economic growth, private-sector job creation, or employment on private-sector investment, as the changes in these rules are directly attributable to the adoption of chapter 2020-71. These rules do not impact provider rates or income. Provider rates are established by the Provider Rate Table in Rule 59G-13.081, *Florida Administrative Code*. The Agency is proposing these new rules to conform with the statutory changes.

If any of these questions are answered "Yes," presume that there is a likely and adverse impact in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

B. Is the rule likely to, **directly or indirectly**, have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule?

1. Is the rule likely to raise the price of goods or services provided by Florida business?

Yes No

2. Is the rule likely to add regulation that is not present in other states or markets?

Yes No

3. Is the rule likely to reduce the quantity of goods or services Florida businesses are able to produce, i.e. will goods or services become too expensive to produce?

Yes No

4. Is the rule likely to cause Florida businesses to reduce workforces?

Yes No

5. Is the rule likely to increase regulatory costs to the extent that Florida businesses will be unable to invest in product development or other innovation?

Yes No

6. Is the rule likely to make illegal any product or service that is currently legal?

Yes No

Explanation: The rules do not have a direct or indirect adverse impact on business competitiveness. The proposed rules clarify the procedures and criteria used by the Agency to determine the eligibility of an organization to become a qualified organization and regulate such organizations as established by section

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393.0663. These rules are solely attributable to the statutes created by chapter 2020-71. These rules implement the above statutory requirements in a manner that is clear and consistent statewide.

If any of these questions are answered “Yes,” presume that there is a likely and adverse impact in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

C. Is the rule likely, **directly or indirectly**, to increase regulatory costs, including any transactional costs (see F below for examples of transactional costs), in excess of \$1 million in the aggregate within 5 years after the implementation of this rule?

1. Current one-time costs	\$0
2. New one-time costs	\$10,820
3. Subtract 1 from 2	\$10,820
4. Current recurring costs	\$8,785
5. New recurring costs	\$54,112
6. Subtract 4 from 5	\$45,327
7. Number of times costs will recur in 5 years	5
8. Multiply 6 times 7	\$226,635
9. Add 3 to 8	\$237,455

If 9. is greater than \$1 million, there is likely an increase of regulatory costs in excess of \$1 million, and the rule must be submitted to the legislature for ratification.

D. Good faith estimates (numbers/types):

1. The number of individuals and entities likely to be required to comply with the rule. *(Please provide a reasonable explanation for the estimate used for the number of individuals and methodology used for deriving the estimate).*

As of September 1, 2020, there were 661 waiver support coordinator entities (agency and solo) that will be required to comply with these rules. These rules are attributable to the statutes created by chapter 2020-71. The Agency is proposing these rules to conform with section 393.0663 to clarify the procedures and criteria used by the Agency to implement this statute in a manner that is clear and consistent statewide.

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2. A general description of the types of individuals likely to be affected by the rule.

Support coordinators, as defined in section 393.063(41), are likely to be affected by these rules as they will be required to work for a qualified organization effective July 1, 2021 pursuant to section 393.0663. The main waiver support coordinator duties and responsibilities are established separately through the Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook (“iBudget Handbook”), incorporated by reference in Rule 59G-13.070, and various Agency rules cited therein. Each support coordinator also has “a statutorily authorized, bi-lateral, and voluntary contract” with the Agency that reiterates their duties and responsibilities. See *Diaz v. State, Agency for Health Care Admin.*, 65 So.3d 78, 83 (2011).

E. Good faith estimates (costs)

1. Cost to the department of implementing the proposed rule:

None. The department intends to implement the proposed rule within its current workload, with existing staff.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

2. Cost to any other state and local government entities of implementing the proposed rule:

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

3. Cost to the department of enforcing the proposed rule:

None. The department intends to enforce the proposed rule within its current workload with existing staff.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

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4. Cost to any other state and local government of enforcing the proposed rule:

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

F. Good faith estimates (transactional costs) likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the proposed rule. *(Includes filing fees, cost of obtaining a license, cost of equipment required to be installed or used, cost of implementing processes and procedures, cost of modifying existing processes and procedures, additional operating costs incurred, cost of monitoring, and cost of reporting, or any other costs necessary to comply with the rule).*

None. This proposed rule will only affect the department.

Minimal. *(Provide a brief explanation).*

Other. *(Please provide a reasonable explanation for the estimate used and methodology used for deriving the estimate).*

Please see attached “Chapter 65G-14, F.A.C., SERC Cost Analysis” comparing existing costs to new costs and concluding that, over the next five years, \$237,455 in the aggregate will be attributed to these rules.

As described in the attachment, several costs are attributed to either section 393.0663, the iBudget Handbook, or Rule 65G-4.0215. Costs attributed to these rules are associated with submitting a complete application to become a Qualified Organization, Qualified Organization leadership who aren’t Support Coordinators being required to take Level 1 support coordinator training described in chapter 65G-10, providing each client with the Client Satisfaction Survey at the annual support plan meeting, reporting specific information to the appropriate Agency Regional Office regarding a support coordinator’s unavailability in excess of 30 days, and filling out a form to validate a mentee’s successful completion of the mentoring program required by section 393.0663(2)12. Each of these minor costs are necessary to ensure that chapter 2020-71 is implemented in a consistent and unambiguous way that meets the needs of Agency clients.

G. An analysis of the impact on small business as defined by s. 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by s. 120.52, F.S. *(Includes:*

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- *Why the regulation is needed [e.g., How will the regulation make the regulatory process more efficient? Required to meet changes in federal law? Required to meet changes in state law?];*
- *The type of small businesses that would be subject to the rule;*
- *The probable impact on affected small businesses [e.g., increased reporting requirements; increased staffing; increased legal or accounting fees?];*
- *The likely per-firm regulatory cost increase, if any).*

A small business is defined in Section 288.703, F.S., as “...an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.”

A small county is defined in Section 120.52(19), F.S., as “any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.” And, a small city is defined in Section 120.52(18), F.S., as “any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.”

The estimated number of small businesses that would be subject to the rule:

- | | | |
|---|--|---|
| <input type="checkbox"/> 1-99 | <input type="checkbox"/> 100-499 | <input checked="" type="checkbox"/> 500-999 |
| <input type="checkbox"/> 1,000-4,999 | <input type="checkbox"/> More than 5,000 | |
| <input type="checkbox"/> Unknown, please explain: | | |

Analysis of the impact on small business:

Why the regulation is needed

The regulation is needed to comply with chapter 2020-71, and ensure its implementation is consistent, efficient, and clearly understood statewide. The Agency is codifying specific requirements that are necessary to ensure qualified organizations have the means and structure to provide competent oversight of support coordinators as required by section 393.0663(1). These rules also establish processes that will enable the Agency to meet its duties under section 393.0663(3) as they pertain to qualified organizations and their support coordinators. In each instance, the Agency narrowly tailored each requirement to minimize any potential impact on business.

**The type of small businesses
that would be subject to the rule**

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Solo and agency providers of support coordinator services will be subject to these rules, many of which are small businesses. The prohibition against solo and agency providers (as currently defined in the iBudget Handbook) is attributed to section 393.0663.

**The probable impact on affected small businesses
and
The likely per-firm regulatory cost increase**

Sections 393.063 and 393.0663, effective July 1, 2021, require Waiver support coordinator entities (solo and agency), many of which are small businesses, to become or join a qualified organization in order to provide support coordinator services. Section 393.0663 requires support coordinator entities to form or join an organization with a minimum of four support coordinators and meet various statutory and rule requirements so that the Agency can make a determination that the organization is qualified to provide support coordination services to Agency clients.

These rules clearly delineate the process by which an organization can apply and be approved by the Agency to become a qualified organization, as well as describe other professional responsibilities and reporting requirements pertaining to each qualified organization. Small businesses that become qualified organizations will be required to develop and implement minimum standards, policies, and procedures delineated in these rules to ensure support coordinators have the knowledge, skills, and abilities necessary to competently provide services to individuals with developmental disabilities.

The Agency estimates that the likely per-firm regulatory cost increase will vary depending on individual circumstances, such as whether existing support coordinators intend to create or join a qualified organization and whether they intend to use the sample policies and procedures the Agency intends to make available or develop their own. The aggregate cost is estimated to be about \$237,455 over the course of the next five years, so the likely per-firm regulatory cost is about \$1,443.50 over five years.

**Establishing less stringent compliance or reporting requirements in the rule
Section 120.54(3)(b)2.a.(I), Florida Statutes**

Establishing less stringent compliance and reporting requirements in the rules would undermine the purpose of chapter 2020-71, which is for the Agency, in collaboration with relevant stakeholders, to ensure support coordinators have the knowledge, skills, and abilities necessary to provide services to individuals with developmental disabilities. The compliance requirements are outlined in statute and delineated in rule to ensure consistent interpretation and implementation.

Reporting requirements are intended to ensure that, where there are problems associated with a qualified organization or its support coordinators' performance, the Agency is apprised of the situation and can follow up as appropriate. Every reporting requirement is based on the statutory directive and the Agency's experience in addressing support coordinator issues, particularly those that have a direct impact on

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the lives of persons with developmental disabilities. The Agency also wants to ensure the organizations it deems “qualified” have sufficient knowledge, experience, and infrastructure (i.e. code of ethics, disciplinary process, and mentoring program required by section 393.0663(2), and policies and procedures required by the iBudget Handbook), to provide competent oversight of support coordinators.

**Establishing less stringent schedules or deadlines in the rule for compliance
or reporting requirements**
S. 120.54(3)(b)2.a.(II), F.S.

The timeframes delineated in these rules are reasonable based on the type of information that must be reported and its probable impact on Agency clients. Less stringent deadlines could pose a risk to individuals with developmental disabilities who may require Agency intervention. For example, any violation that could cause a client’s physical, mental, or emotional health to be significantly impaired must be reported to the Agency within 24 hours of discovering the violation. Any violation involving abuse, neglect, exploitation, or abandonment of a client must also be immediately reported to the Florida Abuse Hotline in compliance with sections 415.1034 and 39.201 and the Agency Regional Office. Because a support coordinator’s unavailability could result in a client not having access to a support coordinator, the Agency requires qualified organizations to provide pertinent information within five days of any support coordinator vacancy in excess of 30 days.

Consolidating or simplifying the rule’s compliance or reporting requirements
S. 120.54(3)(b)2.a.(III), F.S.

The Agency’s compliance and reporting requirements are as simplified as possible while still providing necessary input to the Agency. Each reporting requirement is distinct based on its type and purpose, so consolidating them would likely add confusion rather than clarification.

**Establishing performance standards or best management practices to replace
design or operational standards in the rule**
S. 120.54(3)(b)2.a.(IV), F.S.

To promote consistent, high quality support coordination services across the state, the Agency intends to adopt these standards and management practices as rules rather than making them optional.

As part of this partnership and in furtherance of these goals, the Agency has elected to create and provide templates or examples of each required standard, including performance standards and best management practices to assist support coordinators and applicants who wish to become a qualified organization during this transition. These templates/examples will meet the requirements stated in rule, so applicants will not have to develop their own standards but can instead implement those.

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Exempting small businesses, small counties, or small cities from any or all requirements of the rule S. 120.54(3)(b)2.a.(V), F.S.

Exempting small businesses from any or all requirements of the rules would undermine the purpose of these rules as it relates to chapter 2020-71, as well as contravene the plain language of section 393.0663(1). The statutory directive in section 393.0663(1) clearly requires all support coordinators to be employees of a qualified organization and meet the requirements delineated in that statute and the iBudget Handbook. The Agency's position is that making exceptions by rule would be improper.

There is no small county or small city that will be impacted by this proposed rule.

A small county or small city will be impacted. Analysis:

Lower impact alternatives were not implemented? Describe the alternatives and the basis for not implementing them.

H. Any additional information that the agency determines may be useful.

None.

Additional.

As described in F., please see attached "Chapter 65G-14, F.A.C., SERC Cost Analysis."

I. A description of any good faith written proposal for a lower cost regulatory alternative to the proposed rule which substantially accomplishes the objectives of the law being implemented and either a statement adopting the alternative or a statement of the reasons rejecting the alternative in favor of the proposed rule.

No good faith written proposals for a lower cost regulatory alternative to the proposed rule were received.

See attachment "A".

Adopted in entirety.

Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*

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- Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*
- See attachment "B".
 - Adopted in entirety.
 - Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*
 - Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*
- See attachment "C".
 - Adopted in entirety.
 - Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*
 - Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*
- See attachment "D".
 - Adopted in entirety.
 - Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*
 - Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*
- See attachment "E".
 - Adopted in entirety.
 - Adopted / rejected in part. *(Provide a description of the parts adopted or rejected, and provide a brief statement of the reasons adopting or rejecting this alternative in part).*
 - Rejected in entirety. *(Provide a brief statement of the reasons rejecting this alternative).*

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