

**Rule Summary and Fiscal Analysis (Part A)****Department of Job and Family Services**

Agency Name

**Division of Social Services**

Division

**Michael Lynch**

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**5101:2-47-26**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Title IV-E agencies, private child placing agencies (PCPA), private noncustodial agencies (PNA): penalties for failure to comply with fiscal accountability procedures.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5101.146, 5101.147, 5101.148, 5101.24, 5101.11**

5. Statute(s) the rule, as filed, amplifies or implements: **5101.146, 5101.147, 5101.148**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Ohio Administrative Code (OAC) 5101:2-47-26 outlines the compliance with Ohio Department of Job and Family Services (ODJFS) fiscal accountabilities procedures set forth in Chapter 5101:2-47 of the Administrative Code for Title IV-E Agencies,

Private Child Placing Agencies (PCPA), and Private Noncustodial Agencies (PNA). It establishes corrective action plans and penalties for non-compliance with fiscal accountability procedures for private and public agencies. The proposed changes to the rule are to correct minor grammatical errors to the rule.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The summarized changes to the proposed rule, OAC 5101:2-47-26 are to correct minor grammatical errors in paragraphs (A)(2), (A)(3), (A)(3)(e), (A)(6), and (A)(6)(b). These minor grammatical error corrections are proposed as follows: 5101.14.10 changed to 5101.1410.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

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 121.76(A)(1).

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 121.76(A)(3).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. 119.032 Rule Review Date: **7/23/2014**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There would be an adverse impact to 27 Certified Private Child Placing Agencies (PCPA's) and 136 Private Non-Custodial Agencies (PNA's) in Ohio. The nature of the adverse impact would be as follows: failure to comply with rule may result in

denial or revocation of certification; Cost of canceling the private agencies reimbursement ceiling; Cost of audit findings and time and cost of developing a corrective action plan:

1. Denial or revocation of certification will cost in future revenue as public custodial agencies will be forced to move children from their care and no longer place children with the private agency.
2. Cancellation of the private agencies reimbursement ceiling will result in the initial loss of revenue to the public agency as federal reimbursement will not be allowed. Subsequently, the public custodial agencies will not place future children with the private agency causing a loss of revenue to the private agency.
3. Cost of audit findings is dependent on the nature and scope of the finding and associated federal overpayments and penalties.
4. Time and cost of developing a corrective action plan is dependent on the staff's technical ability to complete the corrective action plan and their salary and benefit costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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

Yes, this rule applies to licensed substitute care child welfare public and private agencies.

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**

OAC rule 5101:2-47-26 establishes corrective action plans and penalties for

non-compliance with fiscal accountability procedures for public and private agencies. Failure to comply with rule may result in denial or revocation of certification; cost of canceling the private agencies reimbursement ceiling; cost of audit findings and time and cost of developing a corrective action plan.

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

This rule sets forth a fiscal accountability procedures compliance process for a Title IV-E agency, private child placing agency (PCPA), or private noncustodial agency (PNA). Corrective Action Plans (CAP) are developed to correct areas determined to be in noncompliance by the IV-E agencies, PCPA or PNA. If a Title IV-E agency, PCPA, or PNA is determined by ODJFS to have been solely or partially responsible for an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanctions or penalties issued by the federal government, they are required to reimburse ODJFS for the amount ODJFS pays to the federal government. If the rule did not exist, ODJFS would not be assured that non-compliance is corrected and ODJFS would be required to pay for all federal overpayments based on the non-compliance found.