

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-9-21

**Rule Type:** Amendment

**Rule Title/Tagline:** Care, supervision and discipline.

**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?** 7/19/2023
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?** 5103.03
5. **What statute(s) does the rule implement or amplify?** 5103.02, 5103.03
6. **What are the reasons for proposing the rule?**

This rule is proposed for amendment as a result of the five year review.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule provides guidance to residential facilities regarding the care, supervision and discipline of the children in the facility. Paragraph (B) was broken out for clarity. The definition for prone restraint has been revised to change the language prohibiting any method of intervention where a person's face and/or frontal part of the body is placed in a downward position touching any surface for any amount of time.

8. **Does the rule incorporate material by reference? Yes**
9. **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 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 ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

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

Paragraph (B) has been restored to the original version.

## **II. Fiscal Analysis**

11. **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

This will have no impact on revenues or expenditures.

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

Depending on an agency's current restraint policies, there may be a new cost associated with staff retraining as a result of newly proposed language. Additionally, agencies may have costs associated with compliance to update or change written materials and maintaining staff with direct care responsibilities under separate provisions of the rule. These costs would not be new costs.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

15. 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

16. Was this rule filed with the Common Sense Initiative Office? Yes

17. 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 by ODJFS requires the agency to comply with the 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 the certificate.

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

There is a cost to comply if the facility does not currently meet the care, supervision and discipline requirements of the rule.

- 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? Yes

Depending on an agency's current restraint policies, there may be a cost associated with staff retraining as a result of newly proposed language.

### IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. 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? 0

- B. How many existing regulatory restrictions do you propose removing? 2

(C)- The residential facility disciplinary procedures shall be humane.

(C) instructive and shall be administered with fairness, consistency and respect and regardless of the child's race, sex, gender identity, sexual orientation, disability, religion or cultural heritage.

## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	No
<b>B. County Government</b>	Yes
<b>C. Township Government</b>	No
<b>D. City and Village Governments</b>	No

**2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.**

For regulated providers currently employing a prone restraint/transitional hold as a part of their restraint policy, there may be costs associated with retraining staff, however ODJFS can not offer a specific cost estimate for individual providers, as this would be unique to the provider's training regime, size, capacity and other local factors.

**3. Is this rule the result of a federal government requirement? No**

**A. If yes, does this rule do more than the federal government requires? *Not Applicable***

**B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

*Not Applicable*

**4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**

**A. Personnel Costs**

For regulated providers currently employing a prone restraint/transitional hold as a part of their restraint policy, there may be costs associated with retraining staff, however ODJFS can not offer a specific cost estimate for individual providers, as this would be unique to the provider's training regime, size and capacity, and other local factors.

**B. New Equipment or Other Capital Costs**

ODJFS does not anticipate any cost impacts relative to new equipment or other capital costs as a result of this rule.

**C. Operating Costs**

ODJFS does not anticipate any cost impacts relative to operating costs as a result of this rule.

**D. Any Indirect Central Service Costs**

ODJFS does not anticipate any cost impacts relative to any indirect central service costs as a result of this rule.

**E. Other Costs**

ODJFS does not anticipate any cost impacts relative to any other costs as a result of this rule.

**5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

In specific counties where a public agency provider may employ prone restraints/transitional holds, there may be an increase in staff training costs. The Ohio Department of Job and Family Services supplies funding to Ohio's county agency providers through Title IV-E federal and state funding to provide services and care for children in county custody, and to provide funding for administrative costs. Additional one-time retraining costs not fully covered by federal or state resources are anticipated to be minimal and would be covered by local funds either earmarked specifically for child protection or from county general funds.

**6. What will be the impact on economic development, if any, as the result of this rule?**

No impact anticipated.