MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Sydney King, Regulatory Policy Advocate

DATE: March 3, 2015

RE: **CSI Review – Procedure for Complaints of Alleged Discriminatory Acts (OAC 5101:2-33-03 and 5101:2-33-11)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (O.R.C.) §107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of two amended rules being proposed by the Ohio Department of Job and Family Services (ODJFS) pursuant to the statutory five-year review requirement. The rule package was filed with the CSI Office on February 2, 2015 and the comment period for the rules closed on February 9, 2015.

The rule package establishes the procedure for Private Noncustodial Agencies (PNAs), Public Children Services Agencies (PCSAs) and Private Child Placing Agencies (PCPAs) to address complaints of alleged discriminatory acts regarding race, color, or national origin (RCNO). Rule 5101:2-33-03 requires agencies to provide a written notice of the discriminatory complaint procedures to an individual applying to be a foster caregiver or adoptive parent, forward the complaint to the ODJFS Bureau of Civil Rights (BCR), and cooperate with complaint investigations. Rule 5101:2-33-11 requires PCSAs and PCPAs to designate a person to serve as the Multiethnic Placement Act (MEPA) monitor, to complete a MEPA self-assessment report, collect MEPA data, and adopt written standards of conduct for employees or contractors to comply with MEPA requirements. The rule allows agencies to share MEPA monitors to fulfill the

required functions.

According to ODJFS, stakeholder feedback was solicited through email. A stakeholder requested ODJFS extend the timeframe to forward a complaint to ODJFS-BCR from "within three working days" to "within five working days." The BIA states ODJFS performed an internal review of this request but did not amend the rule. ODJFS believes that the timeframe is an adequate amount to complete the requirement.

The BIA identifies the adverse impacts as the administrative costs associated with compliance but focuses on the impact to PCPAs and PNAs because the PCSAs, as public entities, are not businesses. A PCPA or PNA is required to prepare written notice for discrimination complaint procedures, to prepare written standards and policies for staff and contractors, designate a MEPA monitor, and submit several forms to ODJFS. ODJFS states the rules are necessary to remain compliant with U.S. Department of Health and Human Services regulations.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules is justified.

Recommendation

For the reasons explained above this office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office