



## MEMORANDUM

**TO:** Trudy Rammon, Ohio Department of Job and Family Services

**FROM:** Sydney King, Regulatory Policy Advocate, Lt. Governor's Office

**DATE:** March 15, 2016

**RE:** **CSI Review – PCPA Semiannual Review and Case Plan Rules (OAC 5101:2-38 - 04 and 5101:2-38 -07)**

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

### Analysis

The Ohio Department of Job and Family Services (ODJFS) submitted a draft rule package consisting of one amended rule and one new rule to the CSI Office as part of the five-year rule review requirement contained in Ohio statute. The rule package was submitted April 6, 2016 and the CSI public comment period closed April 14, 2016.

ODJFS regulates Private Noncustodial Agencies (PNAs), Public Children Services Agencies (PCSAs) and Private Child Placing Agencies (PCPAs) when performing substitute care services and facilitating permanent adoptions. A child is placed in substitute care when a natural birth family has been found to no longer be an appropriate caregiver to the child. The State of Ohio facilitates placement of the child in a setting where the child's mental, physical, and emotional health is given paramount consideration. Because of the seriousness of these actions and the importance of placing a child in a healthy substitute care setting, ODFJS highly regulates the agencies to protect the child's health and well-being. The rule package provides the requirements for PCPAs to perform semiannual administrative reviews and case plans. New Rule 5101:2-38-04 provides the details of what is required to be in the semiannual administrative review. The language was previously incorporated in a rule that regulated PCSAs and it was amended to remove the PCPA language. This rule did not come through the CSI Office.

According to the BIA, the rule package was reviewed during the Partners for Ohio's Families (PFOF) Initiative, which began meeting in 2012 and has consisted of an ongoing rule review process. The PFOF Initiative included meetings throughout the state with public and private agencies. Stakeholders included representatives from private agencies, county agencies, and private non-custodial agencies. ODJFS also solicited feedback through a "clearance comment" period and the BIA states that no comments were provided during this period. During the CSI public comment period, no comments were received.

In its BIA, ODJFS focuses on the impact to PCPAs. In order to obtain and maintain certification with ODJFS, the requirements set forth in the rules must be met. The BIA provides a detailed description of the adverse impacts and the potential costs to the business community. The adverse impacts include costs associated with administrative time, reporting, developing case plans, and filing court documents.

According to ODJFS, the semiannual administrative review documents changes in family behaviors and the conditions that negatively influence safety, risk, and family functioning, and thus is necessary to help ensure the safety of the children in substitute care. Additional justification is found in the public purpose of the rules.

Following review of the draft rules, the BIA, and stakeholder outreach, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the draft rules are justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

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