



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

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

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: June 12, 2019

RE: **CSI Review – Foster Care Facilities (OAC 5101:2-5-13, 5101:2-9-05, 5101:2-9-06, 5101:2-9-08, 5101:2-9-10, 5101:2-9-11, 5101:2-9-12, 5101:2-9-14, 5101:2-9-16, 5101:2-9-17, 5101:2-9-19 through 5101:2-9-25, 5101:2-9-28, 5101:2-9-29, 5101:2-9-30, 5101:2-9-32, and 5101:2-9-34)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 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 22 amended rules proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on April 2, 2019 and the public comment period was held open through April 9, 2019. The Department submitted its response to stakeholder comments on April 18, 2019.

The rules in this package are largely part of Ohio Administrative Code (OAC) Chapter 5101:2-9 and regulate children's residential centers, group homes, and residential parenting facilities. OAC 5101:2-5-13 sets forth requirements for the policies, plans, and procedures that required of certain agencies. The rule is being amended to clarify the definition of prone restraints. OAC 5101:2-9-05, 5101:2-9-06, 5101:2-9-08, and 5101:2-9-10 establish safety, security, and equipment requirements. These rules are being amended to clarify and correct the rule language, as well as update references within the rules. OAC 5101:2-9-11 and 5101:2-9-12 establish guidelines for the use of admissions logs and service plans and are being amended to remove custody requirements and expand service

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plan provision. OAC 5101:2-9-14 details the requirements for medication regimens and is being amended to account for the storage of emergency medications. OAC 5101:2-9-16 describes visiting and communication restrictions and is amended to remove reference to an outdated rule. OAC 5101:2-9-17, 5101:2-9-19, and 5101:2-9-20 present guidelines for handling the belongings, hygiene, education, and nutrition of children. The rules include amendments that address parenting standards and federal nutrition guidelines. OAC 5101:2-9-22, 5101:2-9-23, and 5101:2-9-24 address child isolation and restraint, complaint policy, and critical incident notification. Amendments are being made to these rules that include new documentation requirements. OAC 5101:2-9-25, 5101:2-9-28, 5101:2-9-29, 5101:2-9-30, 5101:2-9-32, and 5101:2-9-34 address facility and transportation requirements. Amendments are being added to require employees possess a valid driver's license in order to transport children.

During early stakeholder outreach, ODJFS conducted meetings with stakeholder groups and sent the rules to interested parties for review. During this time, ODJFS received comments from three stakeholders. Two comments addressed the use of transitional holds and prone restraints. ODJFS stated that the clarification of the rule language regarding transitional holds is being made to prevent harm to children and that the suggested changes would not represent additional burdens on facilities. Two stakeholders also suggested changes to new language that establishes the JFS 01386 report. ODJFS amended the rule to allow additional methods of capturing the information needed in the report. During the CSI public comment period, ODJFS received comments from two stakeholders. The comments again addressed the use of transitional holds. ODJFS responded to the stakeholders, stating that the suggested changes would not be implemented, as the amendments help protect children and do not represent an additional financial burden on stakeholders.

The business community impacted by these rules includes all foster care agencies operating in Ohio. The adverse impacts created by the rules are primarily the time and effort necessary to adhere to the requirements of the rules. These include maintaining locked storage cabinets, fire safety measures, daily meals, and record maintenance. ODJFS states in the BIA that these rules provide for the safety of children in foster care by providing guidelines that ensure adequate care.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Job and Family Services should proceed in

filing the proposed rules with the Joint Committee on Agency Rule Review.