



## 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:** March 13, 2020

**RE:** **CSI Review – Model Foster Home Standards (OAC 5101:2-5-09, 5101:2-5-09.1, 5101:2-5-18, 5101:2-5-20, 5101:2-5-24, 5101:2-5-32, and 5101:2-5-33)**

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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 six amended rules proposed by the Ohio Board of Building Standards (Board). This rule package was submitted to the CSI Office on January 17, 2020, and the public comment period was held open through January 23, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on January 17, 2020.

Ohio Administrative Code (OAC) Chapter 5101:2-5 establishes requirements for the licensing of child services agencies. The rules included in this package are being amended following the passage of HB 166 of the 133<sup>rd</sup> General Assembly, which includes key provisions for foster care and child services agencies found in the Federal Family First Prevention Services Act. OAC 5101:2-5-09 sets forth requirements for personnel and prohibited convictions for employment and is being amended to include new requirements for hiring board officials and extended background check requirements as required by changes to authorizing statute. OAC 5101:2-5-9.1 requires criminal records checks for certain prospective employees and caregivers and is being amended to remove conditions for obtaining information as part of a background check and introduce

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requirements for completing a review of the national sex offender registry for foster caregivers and certain adults. OAC 5101:2-5-18 describes the process for granting a waiver or variance and includes amendments that remove certain waiver qualifications for children's crisis care facilities to comply with statute. OAC 5101:2-5-20 and 5101:2-5-24 address foster care homestudy and foster home recertification. The rules include amendments that lower the age for provision of an Application for Child Placement, as well as new requirements for immunizations for certified homes. OAC 5101:2-5-32 sets forth occupancy limitations and accessibility requirements. Amendments are being made to the rule that update and clarify the rule language. OAC 5101:2-5-33 concerns foster caregiver preplacement and continuing training and is amended to add new pre-placement training topics.

During early stakeholder outreach, ODJFS sent the rules to industry stakeholders for review and held meetings with relevant county and private agencies. Over the course of two clearance periods, ODJFS received 13 comments from stakeholders. Amendments made to the rules during this time include exemptions from immunization requirements for religious reasons and for existing caregivers. During the CSI public comment period, ODJFS received approximately 204 comments from stakeholders. 202 of these comments were addressed similar concerns that the rule would prevent foster care providers or adoptive families from accepting children if certain vaccination requirements were not met. In response to these comments, ODJFS stated that the rules now contain additional exemptions for health or conscience reasons. Additionally, current foster caregivers are exempt from new immunization requirements.

The business community impacted by these rules includes 88 public and over 100 private child services agencies. The adverse impacts created by the rules are primarily the time and effort spent by agencies adhering to the requirements of the rules, including submitting applications for certification or waivers. Additional costs include obtaining background checks for employees and providing adequate training and continuing training. ODJFS states in the BIA that these adverse impacts are necessary to provide children in foster care with safe and secure environments.

### **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.

