



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Mike Lynch – Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Chapter 38 – PCPA requirements for completing the semiannual administrative review

Rule Number(s): 5101:2-38-04

Date of Submission for CSI Review: 6/25/21

Public Comment Period End Date: 7/2/21

Rule Type/Number of Rules:

☐ New/\_\_\_ rules

☐ No Change/\_\_\_ rules (FYR? \_\_\_)

☒ Amended/ 1 rules (FYR? X)

☐ Rescinded/\_\_\_ rules (FYR? \_\_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

### **Reason for Submission**

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rules for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule:**

- ✗ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- ✗ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- ✗ c. Requires specific expenditures or the report of information as a condition of compliance.**
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

### **Regulatory Intent**

2. **Please briefly describe the draft regulation in plain language.**

***Please include the key provisions of the regulation as well as any proposed amendments.***

Ohio Administrative Code (OAC) rule 5101:2-38-04 entitled PCPA requirements for completing the semiannual administrative review sets forth the requirements that apply to a private child placing agency (PCPA) when completing a semiannual administrative review. The paragraph order has been restructured throughout the rule and language has been updated to reflect the changes to the family case plan. Language has been included to support additional time for case review approval after submission by a caseworker. Language was added to include the notification requirements of permanency team members for a child in a Qualified Residential Treatment Program (Q RTP).

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

ORC 2151.412, 2151.416

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

No, the rule does not implement a federal requirement.

- 5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The rule does not exceed a federal requirement.

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The rule establishes requirements a private child placing agency must make when completing a semiannual administrative review.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The private child placing agency (PCPA) must be licensed under current law. Licensure is dependent, in part, on complying with the standards in this rule.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

ODJFS placed the rule on the preclearance website prior to the formal clearance process. During preclearance and clearance, the rule was presented to the Rule Committee of the Public Children Services Association of Ohio (PCSAO) where feedback was requested and received during the meetings.

- 10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

The feedback received from the stakeholder engagement meetings was incorporated into the rule.

This rule completed external clearance (5/27/21-6/10/21) without comments received.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Not applicable.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

There were no other alternatives considered for the rule as the rule is driven by statute.

**13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

The concept of performance-based regulation does not apply to this rule, as the rule contains specific requirements for agencies completing a semiannual administrative review.

**14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

ODJFS policy and legal staff review the relevant regulations to PCSAs and PCPAs on a regular basis and no duplication with this rule is known to exist.

**15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

When the rule is final filed, a transmittal letter will be generated explaining the changes to the rule and the rationale for the changes. ODJFS technical assistance specialists review agencies to ensure compliance and the regulations are applied consistently.

**Adverse Impact to Business**

**16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community; and**

The rule of the Administrative Code contains requirements for private agencies (24 PCPAs) to make when completing a semiannual administrative review.

**b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

The adverse impact includes specific expenditures and the report of information.

The adverse impacts of the requirements set forth in rule 5101:2-38-04 include the time required to document and share information as well as time spent completing forms, such as the JFS 01416 Semiannual Administrative Review for Private Child Placing Agencies (SAR). The SAR is required to be completed and held every 180 days, filed with the court, and provided to parties to the Family Case Plan. Obtaining the information, completion of the document, and the time spent reviewing the document with the parties would typically be completed by a caseworker/social worker. The time spent completing the activities varies based on each family.

**c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

The expected adverse impact for rule 5101:2-38-04 includes: obtaining the information, organizing the documents, completion of the documents required of this rule, and time spent attending the meeting, and contacts with the family. All activities would typically be completed by a caseworker/social worker. The time spent completing the activities varies based on each family. The time spent could range from approximately one hour to several hours. The anticipated cost to comply with this rule would depend on the wage for the specific worker as well as the availability and accessibility of the information for each family. The current average wage for a child welfare caseworker in the State of Ohio is \$28 per hour, according to Salary Expert. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would range from \$28 - \$140 per hour, depending on administrative and staffing variables. There is no additional cost because of the amendments to this rule.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The adverse impact is necessary to monitor and review family cases involved with the agency.

**Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

There are no exemptions and no alternative means of compliance for rule 5101:2-38-04.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

N/A.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

**20. What resources are available to assist small businesses with compliance of the regulation?**

ODJFS publishes all rules online as an e-manual. All public and private agencies have access to this publication, which is located at <http://emanuals.jfs.ohio.gov/>.

ODJFS has regional offices with technical assistance specialists that will be assigned to assist the agency in compliance with the requirements of rule 5101:2-38-04.