



## Common Sense Initiative

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

**Sean McCullough**, Director

### Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

Independent Living Services

Rule Number(s): OAC 5101:2-42-19

Date of Submission for CSI Review: 12/6/2021

Public Comment Period End Date: 12/13/2021

**Rule Type/Number of Rules:**

New/\_\_\_ rules

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

Amended/\_\_\_1\_\_\_ rules (FYR? No)

Rescinded/\_\_\_ rules (FYR?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.

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### **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 rule for CSI review.

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

The rule(s):

- 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.*

OAC 5101:2-42-19 entitled “Requirements for the Provision of Independent Living Services to Youth in Custody” rule provides guidance to agencies who serve youth ages 14 year of age and older on the procedures necessary to prepare them to leave agency custody to self-sufficiency. This rule has been amended to update outdated modes of communication by removing the word written and require the independent living plans to be developed in SACWIS.

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.

5101.141, 5103.03, 5153.166

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?

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

The previous amendments to rule 5101:2-42-19 implemented in part, provisions of the Family First Prevention Services Act, Public Law 115-123 which are currently in effect.

In this current rule amendment, there are no new federal requirements.

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

This rule does not exceed federal requirements.

- 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)?**

To provide guidelines for public children services agencies (PCSAs) and private child placing agencies (PCPAs) to prepare youth for the transition from agency custody to adulthood and self- sufficiency.

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

This rule is monitored through the certification process.

- 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. This rule is not being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931

### **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.***

The amendments of this rule are being made as a part of the Common Sense Initiative Office's efforts to update outdated modes of communication in the OAC. Therefore, stakeholder involvement was not conducted

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

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Not applicable.

**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 rule 5101:2-42-19 as the rule is driven by statute and proposed changes are for clarity and modernization of terms only.

**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 regulations do not conform to the subject the rule addresses, as these requirements are driven by statute and prioritize the well-being of youth in temporary custody.

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

JFS Legal staff and rule developers diligently review rules to assure there is no duplication of an existing Ohio regulation.

**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.**

Once the rule is final filed, a transmittal letter will be generated explaining the changes to the rule and the rationale for the changes. The transmittal letters can be viewed at <http://emanuals.jfs.ohio.gov/FamChild/FCASM/FCASMTL/>. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

**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

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Ohio Administrative Code (OAC) Rule 5101:2-42-19 contains requirements for youth in temporary custody being placed into substitute care provided by a public children services agency (PCSAs) and private child placing agency (PCPAs). Requirements must be met to obtain and or maintain certification for 25 PCPA.

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

The adverse impact would involve time and expenses related to compliance with the requirements outlined in OAC 5101:2-42-19 for an agency to obtain and or maintain certification. The impact of the requirements for providers will vary depending on their business structure and how the agency provides life skill assessments, independent living plans, transition plans and the youth's necessary documents (i.e., birth certificate, health and education records, social security card, and state identification) to youth prior to emancipation.

**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.*

There are no additional costs.

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

The adverse impact of this rule is necessary to ensure the safety of youth in substitute care.

**Regulatory Flexibility**

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

There are no alternative means of compliance for OAC rule 5101:2-42-19.

**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?**

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There are no fines or civil penalties for non-compliance other than the forfeiture of certification through denial or revocation for OAC rule 5101:2-42-19.

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

ODJFS has a regional office with a licensing specialist that will be assigned to assist the agency in the entire application process including assistance with program implementation and reporting the necessary information into SACWIS as required by this rule.