



## 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:

Mike Lynch – [Michael.Lynch@jfs.ohio.gov](mailto: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 & PCPA family case plan for children in custody or under court-ordered protective supervision.

Rule Number(s): 5101:2-38-04 & 5101:2-38-07

Date of Submission for CSI Review: 9/7/22

Public Comment Period End Date: 9/14/22

Rule Type/Number of Rules:

New/\_\_\_ rules

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

Amended/ 2 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Rescinded/\_\_\_ rules (FYR?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.

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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.***

Ohio Administrative Code (OAC) rule 5101:2-38-07 “PCPA family case plan for children in custody or under court-ordered protective supervision” and 5101:2-38-04 “PCPA requirements for completing the semiannual administrative review” set forth the requirements for a private child placing agency (PCPA) when completing family case plan and semiannual administrative review. Revisions require the PCPA to do the following for a child in temporary custody who has a permanency case plan goal of reunification: Development and document the concurrent plan within the case record, identify the concurrent plan objective and a summary of planned services and activities in the family case plan and a review the concurrent plan within the semiannual administrative review. The paragraph order has been restructured throughout the rules and language has been updated to reflect the revised requirements.

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- 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 2151.416

- 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 rules do 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 rules do 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 rules establish requirements for a private child placing agency (PCPA) must adhere to for concurrent planning for a child in temporary custody when the case plan goal is reunification.

- 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. This rule establishes minimum standards for PCPA's to follow and is reviewed during the recertification 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.

### **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.*

Amendments to the rules resulted from revisions in Ohio Revised Code (ORC) 2151.412 upon the passing of House Bill 110 of the 134<sup>th</sup> General Assembly (HB 110). ODJFS has presented

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and discussed the rule revisions with Public Children Services Association of Ohio (PCSAO) the Fatherhood Commission, Kinnect, IV-E Juvenile Courts, and public children service agencies. The rules were posted in public clearance from 8-23-2022 thru 9-6-2022.

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

Input was received on the structure and clarity of the rule body and considerations for concurrent planning to be recorded in the case record. Rule revisions were developed to incorporate the requirements with recording the concurrent plan objective and summary of activities and services in the family case plan per ORC to have minimal impact on current workforce and practices. The review and updates to concurrent planning were added to the Semiannual Administrative Review into the pre-existing permanency planning sections of the tool.

**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.***

N/A

**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**

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**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 rules of the Administrative Code contain requirements for private agencies (24 PCPAs) to make when completing a family case plan and semiannual administrative review for a child in temporary custody with a case plan goal of reunification.

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

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 and 5101:2-38-07 include the time required to document and share information as well as time spent completing forms, such as the family case plan and semiannual administrative review. The family case plan is to be developed and completed and filed with the court no later than thirty days. The semiannual administrative review is to be completed every one-hundred and eighty days and filed with the court. Obtaining the information, completion of the document, and the time spent developing and 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 5101:3-38-04 and 5101:2-38-07 includes: obtaining the information, organizing the documents, completion of the documents required of these rules, and time spent attending meetings, 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 \$29 per hour, according to Salary Expert. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would range from \$29 - \$140 per hour, depending on administrative and staffing variables. There will be a minimal cost to send staff to trainings offered by ODJFS. This requirement is for children in the temporary custody of the PCPA with a case plan goal of reunification. This will be a small portion of cases involved with the PCPA.

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**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 rules 5101:3-38-04 and 5101:2-38-07.

**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?**

Not Applicable.

**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 rules 5101:2-38-07 and 5101:2-38-04.