



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information: Michael Lynch

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

Scholars Residential Center

Rule Number(s): 5101:2-5-03, 5101:2-5-18, 5101:2-9-42 and 5101:2-9-45

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/ 1 rules

No Change/ _____ rules (FYR? ____)

Amended/ 3 rules (FYR? N)

Rescinded/ _____ rules (FYR?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 5101:2-5-03 entitled "Certification of an agency to perform specific functions" provides guidance to agencies on what functions of certification are available for agencies. Paragraph (D) was amended to add a scholars residential center as a function type.

OAC 5101:2-5-18 entitled "Waivers and variances" provides guidance to agencies on how to request a rule waiver. The rule was amended to allow a scholars residential center to request agency waivers and to allow an agency to request a waiver for a foster home in the case of a disaster or emergency situation regarding the home.

OAC 5101:2-9-42 entitled "Qualified residential treatment program" provides guidance to agencies on the requirements for the operation of a QRTP. The rules definition was amended to add a scholars residential center to a list of providers that are exempt from being a QRTP.

OAC 5101:2-9-45 entitled "Scholars residential center" provides guidance to agencies on a new residential facility called a scholars residential center which is focused on an educational population of children.

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.**

OAC 5101:2-5-03

Statute: 5103.03, 5103.6018, 5103.617, 5103.54, 5153.166 Rule Amplification: 5103.03, 5153.16

OAC 5101:2-5-18

Statute: 5103.02, 5103.03 Rule Amplification: 5103.02, 5103.03, 5103.54

OAC 5101:2-9-42

Statute: 5103.03 Rule Amplification: 5103.03

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 are not written as a requirement of Federal Law and does not exceed any Federal requirements.

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

The rules do 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)?**

The rules set up structure for the provision of permitted actions and services when children are in an out-of-home placement within a residential facility.

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

The implementation of the rules and subsequent outcomes are 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.

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.

Boys Hope, Girls Hope led the effort to propose statue language that was in HB 33 of the 135th General Assembly.

The rule went through the public clearance on August 2, 2023 through August 16, 2023. There were no comments provided.

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

A meeting was held with Boy Hope, Girls Hope and ODJFS on June 28th to provide Boys Hope, Girls Hope representatives the opportunity to provide input on rule language. The proposed rule was sent to those representatives prior to clearance to provide the opportunity for further review and input. As a result, minor changes in the structure of the rule but nothing substantively was altered.

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?

No scientific data was used to develop the rules.

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?
Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

No alternative regulations were considered for rules 5101:2-5-03, 5101:2-5-18, 5101:2-9-42 as the rules are driven by statute.

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

There is no duplication as the rules are specific to residential facilities and no other rule addresses these specific issues. The rules were reviewed by the legal staff at ODJFS prior to the clearance process to ensure it did not duplicate any existing Ohio regulations.

14. 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.

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

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

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a. Identify the scope of the impacted business community, and

The impacted business community is one agency with two sites in the state of Ohio.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

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.

Each agency operates differently, with differing numbers of providers to be certified, and varying numbers of employees available to conduct the requirements of provider certification and re-certification, and the exact cost impact can vary greatly based upon individual business structure. The adverse impact would vary based upon staffing and time spent adhering to rule regulations and reporting the information necessary for rule compliance, employee time involved in compliance with the day-to-day activities and requirements of operating a residential facility. The estimated time for compliance may be as an example if the agency has 10 employees would be responsible for approximately 8 hours per month at a rate of \$23.13 per hour. The estimated cost is \$1,850 for operational monthly cost.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

Not Applicable.

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

These rules are required by and implement statutory provisions enacted by the General Assembly.

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.

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 has a regional office with a licensing specialist that will be assigned to assist the agency in the entire application process including assistance with the proper information required by this rule if the agency chooses to use a certification to meet Ohio requirements.