



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

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

Rule Contact Name and Contact Information: Michael Lynch Michael.Lynch@jfs.ohio.gov

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: 10/20/2023

Public Comment Period End Date: 10/27/2023

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 1 rules (FYR? Yes)

Rescinded/___ rules (FYR?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

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 years of age and older on the procedures necessary to prepare them to leave agency custody to self-sufficiency. This rule has been amended to remove language that poses as a barrier to services, clarifies language on room and board as well as adult supporters participating in Independent Living Planning. Amendments also update language referencing Ohio SACWIS.

The rule has also been amended to include language that aligns the readiness review with the semi-annual case review requirement from at least every 90 days to at least every 180 days. Amended language also allows for the delay of transition planning based on a youth’s specific needs and planned emancipation date. In addition, the revisions clarified language regarding the requirements to educate youth on Bridges prior to emancipation. Language was added with regards to NYTD surveys and the provision of the Foster Youth Rights Handbook neither of these are new requirements, but streamlined requirements outlined in other OAC rules for clarity specific to the identified population.

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?**

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

This rule implements the federal requirements of the John H. Chafee Foster Care Independent Program. This includes requirements regarding Independent Living assessment, planning and review, the National Youth Transition Database and Chafee funding which is provided to states to support youth/young adults in or formerly in foster care in their transition to adulthood.

In this current rule amendment, there are no new 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.**

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 minimum requirements for public children services agencies (PCSAs) and private child placing agencies (PCPAs) to prepare youth 14 and older 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 child and protection oversight process and the federal child and family services review.

- 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.

Stakeholders included by the Agency in the initial review were PCSA's, PCPA's, youth, and young adults who are in or emancipated from foster care as well as the Public Children

Services Association of Ohio (PCSAO) and the Ohio Children's Alliance (OCA) Foster Care and Adoption Committee.

Six listening sessions were scheduled, five were virtual and one in person held in conjunction with the Ohio Independent Living Association quarterly meeting. Invitations for listening sessions were emailed to stakeholders on March 22, 2023, and April 16, 2023.

Recommended changes were presented to PCSAO on June 1, 2023, and feedback was received. These drafts were also presented to OCA Foster Care and Adoption Committee on June 20, 2023.

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

There was input from stakeholders in several areas of the rule. This includes:

- The relaxation of readiness reviews, which was drafted by changed language from 90 days to 180 days.
- Clarification regarding the final transition plan language for youth who remain in care after the age of 18, along with the request not to require agencies to draft two final transition plans. Language was added to rule allowing agencies to delay the development of the final transition plan based on the individual's anticipated emancipation date.
- Some of the language in the rule meant to provide ideas of independent living services based on the domains was limiting. Amendments removed these lists from rule and only maintained the required categories. The examples and ideas for each associated category have been maintained in the Independent Living Toolkit.
- The role to provide the Foster Youth Rights Handbook to youth and requested that language be included in this amendment.

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? *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.*

The Agency did not consider regulatory alternatives, the feedback received from stakeholders was for flexible language to serve the population as well as language that specifies their requirements to meeting timelines for the provision of services.

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.

13. 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 not duplication of an existing Ohio regulation.

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.

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 with 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:

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

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 21 PCPA.

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.

There are no additional costs. 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.

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).

Yes, there are two revisions that will reduce a regulatory burden to agencies. One the rule revisions to relax the requirement of the readiness reviews from 90 days to 180 days. Two, to allow agencies to delay the development of the final transition plan based on the individual's anticipated emancipation date for those youth who do not emancipate until after their 18th birthday.

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 and improve outcomes of youth in and for those youth who emancipate from substitute care consistent with the federal requirements to provide independent living services.

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?

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 Ohio SACWIS as required by this rule.