

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: Independent Living Services for Youth

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

Date: June 9, 2017

**Rule Type:**

☐ New

☒ Amended

☐ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

This rule is being amended as a result of the federal mandates of Public Law 113-183, ensuring credit reporting language requirements were deleted from rule 5101:2-38-10 and amended into this rule for continuity. H.B. 50, 131<sup>st</sup> General Assembly established voluntary placement agreements for youth who have emancipated from foster care into an extended program. The guidelines for the program are being outlined in rule 5101:2-42-19.

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

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

5101:2-42-19 – *Requirements for the provision of independent living services to youth in custody.* This rule sets forth the guidelines for the provision of independent living services required to be provided to each youth in the custody of a Public Children Services Agency (PCSA) or Private Child Placing Agency (PCPA), who has attained the age of fourteen, to prepare them for the transition from agency custody to self-sufficiency. Changes are being incorporated for clarity in the process of case plan amendment due to a youth reaching the age of fourteen in care, and to add language that requires caseworkers to request a credit report from each of the three major credit reporting agencies each year until the child is emancipated from substitute care. In addition guidelines based on H.B. 50, 131<sup>st</sup> General Assembly to provide extended foster care to youth until the age of twenty-one.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

5101.141, 5103.03, 5153.166

**3. 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.*

Yes, this rule implements the provisions of Public Law 113-183, the “Preventing Sex Trafficking and Strengthening Families Act” (9/2014).

**4. 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 federal requirements.

**5. 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)?**

This rule sets forth the requirements for PCSAs and PCPAs to prepare youth for the transition from agency custody to self-sufficiency. The federal mandate allows younger children more time to absorb and practice life skills needed toward independence; and in particular, the amendment requiring documentation and review of credit reports offers knowledge of financial standing necessary for independent living for those youth preparing to emancipate.

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

Success will be measured through compliance with the federal mandates of Public Law 113-183 and the provisions of H.B. 50, 131<sup>st</sup> General Assembly.

### **Development of the Regulation**

**7. 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 department placed the rules into pre-clearance and clearance on the following dates February 13, 2017 – February 27, 2017 and again May 2, 2017 – May 16, 2017. During the first clearance comments were sent by:

Nichole McClure (Clermont Co.), Susan Halter (ODFJS), Monica Gazarek (Wood Co.), Kristin Ross (Lorain Co.). The second clearance comments were sent by:

Mindy Hughes (Lake Co.)

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

Mindy Hughes Lake Co. JFS	5101:2-42-19 (E) The PCSA or PCPA shall “develop ” a written independent living plan within thirty days 26 Q: Should the word “develop ” be replaced? Now that the IL plan has been updated in SACWIS, the date formerly labeled as the “Effective Date ” is instead a “Plan DEVELOPED Date.”  “Develop ” seems to inaccurately imply that the plan needs to be STARTED rather than FINISHED within 30 days because SACWIS automatically populates the “Plan Developed Date ” as the day the IL plan is STARTED in SACWIS.  Would it be more accurate to say that the plan should be "Active" in SACWIS by the 30th day?	Thank you for your participation in the clearance process.  In response to your first question regarding the word develop. The the initial independent living plan which would be a developed p timeline “within thirty days” indicates a process to completion.  In reference to your questions on language within rule to align with policy leads the guidance and SACWIS follows to implement requirements set by policy.
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	<p>Additionally, the IL Summary Report tracks whether the "Plan Developed Date" falls within 30 days of the IL assessment, which would be appear to be in compliance even if one were to start a plan on the 30th day but hadn't entered the goals/services necessary to make the plan active.</p>	
	<p>5101:2-42-19 (F) "The PCSA or PCPA shall amend the case plan and submit to the court WITHIN seven days following the completion of the initial independent living plan..."</p> <p>Q: Does "within" preclude doing the amendment earlier than the 7 day period after the plan is complete? If I amend a case plan on the youth's 14th birthday, for example, to reflect that the child attained the age of 14 and life skills will be offered, technically it would not be within that 7 day period.</p>	<p>This language was added to clarify the true intent of the expected timeline. The amendment is due within seven days of a change not simply because a youth had turned 14. If the plan is being completed there actually is no change yet and not until the amendment is completed the independent living plan does the clock for the seven days to amend start. Therefore the timeline looks like:</p> <p>Youth in care turns fourteen, the independent living assessment begins. The assessment is due to sixty days to complete. Once the assessment is completed the independent living plan is amended within 30 days of the completion of the assessment. Once it is amended the amendment is to be completed and filed with the court within 7 days.</p>
	<p>5101:2-42-19(J) "A PCSA shall... EACH WORK DAY or as information becomes available ...</p> <p>(1) All SERVICES PROVIDED to youth as indicated in paragraph (D) of this rule."</p> <p>Q: Does this rule conflict with "independent living plan shall be reviewed at least every NINETY DAYS thereafter until the agency's custody is terminated" in 5101:2-42-19(E)? If I am doing a formal review if the IL plan and any services provided every 90 days, am I also expected to update "Provided" Services linked to the IL plan within 1 work day?</p>	<p>This rule has had an extremely long timeline within this paragraph. The language was added as information and this timeline needed to be revised to align with current standards and capabilities.</p> <p>This does not interfere with the review standards set. This policy clarifies the timeline for guidance as information is received by either a public or private agency. The timeline is when it is received. Age, gender, grade level, etc. or if a service is being provided. The agency has the capability of documenting current information without delay.</p>

	<p>5101:2-42-19 (L)</p> <p>"...at least 180 days prior to the youth's eighteenth birthday..." and (M)"...at least 90 days prior to the youth's emancipation..."</p> <p>We sometimes receive temporary custody of a 17 year old who will be 18 in less than 180 (or even 90) days before the youth will emancipate or turn 18. Could this read, "or within XX days of custody for youth who enter custody less than 90 days before the youth 18th birthday (or 180 before emancipation)."</p>	<p>This paragraph has changed based on other clearance recommendations. Bridges program are all contained within paragraph (L).</p> <p>In response to your question of older youth coming into care. standards, all special circumstances are taken into consideration and the standard the agencies documentation will address the specific monitoring staff will take special circumstances into consideration u</p>
	<p>(M) sets the mandate to start the Final Transition Plan (TP) at least 90 days before emancipation. That TP is then a working doc for the next 90 days until it is ended at emancipation. Under this 90 day mandate, (M)(1) reads as though those activities in a-d also need to occur 90 days prior to emancipation rather than over that 90 day period. It make sense to (a)contact the Bridges rep and (b) assign him/her by that 90th day, but there won't be a (c) final transition plan document to provide to the Bridges rep at that point and (d) collaborating with the Bridges rep will also be something that happens over time.</p> <p>Additionally, b and c are not both necessary. Once the Bridges worker is assigned in SACWIS, he or she will have access to the Final Transition Plan working doc in SACWIS.</p>	<p>This paragraph has changed based on other clearance recommendations. Bridges program are all contained within paragraph (L).</p> <p>This is now the new revised paragraph (L) as reference to the previous</p> <p>The PCSA or PCPA shall provide the youth information on post emancipation criteria to enroll in Bridges in accordance with chapter 5101:2-50 of</p> <ol style="list-style-type: none"> <li>1) At least one hundred eighty days prior to the youth's eighteenth birthday, the PCSA or PCPA shall determine if one of the following eligibility criteria are met for the youth to be enrolled in the Bridges program upon the youth emancipation: <ol style="list-style-type: none"> <li>a) Youth is completing secondary education or a program leading to a post-secondary education</li> <li>b) Youth is enrolled in an institution that provides post-secondary education</li> <li>c) Youth is participating in a program or activity designed to prepare the youth for employment</li> <li>d) Youth is employed for at least eighty hours per month.</li> <li>e) Youth is incapable of doing any of the activities described in (a) through (d) due to a medical condition, and incapacity is supported by a qualified practitioner.</li> </ol> </li> <li>2) At least ninety days prior to the youth's emancipation the PCSA or PCPA shall determine if the youth is interested and meets at least one of the eligibility criteria (a) to (e), the PCSA or PCPA shall: <ol style="list-style-type: none"> <li>a) Contact and introduce the youth to the Bridges representative</li> <li>b) Assign the Bridges representative to the ongoing case with the youth</li> </ol> </li> </ol>

	<p>(N)(3) ends with "and information on obtaining a drivers license," which is duplicate of (M)(10) Information on obtaining a driver's license," except that the 's punctuation on driver's was corrected in M but not in N.</p> <p>SACWIS note: The TP specifically asks questions to document that all requirements in M-P of rule are met. The only requirements not mentioned in the TP are (11) re: court fees and (9) re: registering for selective service. It would be helpful to add these to the TP Necessary Documents or Resources tabs.</p>	<p>c) Collaborate with the Bridges representative until the youth's custody has been terminated.</p> <p>3) At least fourteen days prior to the youth's emancipation, the youth has all documentation required to enroll in the Bridge program.</p> <p>As you can see the suggestion to remove providing the Bridge program transition plan has been removed by your recommendation.</p> <p>The reference in paragraph (M) directs the agency to ... <u>"shall work with the youth to develop a transition plan. The plan shall be youth-driven and as detailed as the agency is able to include information regarding..."</u></p> <p>In paragraph (N) directs the agency to ... "coordinate with the following documents..."</p> <p>The reference to correcting "driver's" has been made in paragraph (M).</p> <p>Policy and SACWIS will work to include the reference of court fees in the financial area. Registering for selective service is contained in SACWIS requirement for males only.</p> <p>Again, Thank you for your interest in this process.</p>
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<p>Nichole McClure Clermont Co. <a href="mailto:Nichole.Mcclure@jfs.ohio.gov">Nichole.Mcclure@jfs.ohio.gov</a></p>	<p>When directing that the child receive a copy of the credit report annually, is that based upon calendar year or one year from the date that the report was run?</p>	<p>The rule reads: "For each child in the custody of the PCSA or PCPA who is fourteen, the PCSA or PCPA shall request a credit report from each of the following agencies (CRA) each year until the child is discharged from substitute custody simultaneously or separately throughout the year."</p> <p>For clarification, The child if turning fourteen or older while in age-appropriate custody, three credit reports requested at the same time and from that date forward, or if the requests are made separately, whenever a report was requested, that last request date and each separate request must follow the annual request.</p>
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<p>Susan Halter</p> <p>Internal</p> <p><a href="mailto:Susan.Halter@jfs.ohio.gov">Susan.Halter@jfs.ohio.gov</a></p>	<p>What about reference to the JFS 01677 "Foster Youth Rights Handbook?" To the effect - Each youth age 14 who comes into the custody of a PCSA shall receive a JFS 01677 Foster Youth Rights Handbook in accordance with OAC 5101:2-68-90.</p>	<p>The guidance provided regarding the Foster Youth Right's Handbook In order not to be duplicative there was not a need to revise OAC language inside this rule as well.</p>
<p>Monica Gazarek</p> <p>Wood Co.</p> <p><a href="mailto:Monica.Gazarek@jfs.ohio.gov">Monica.Gazarek@jfs.ohio.gov</a></p>	<p>(F) The PCSA or PCPA shall amend the case plan and submit to the court within seven days following the completion of the initial independent living plan pursuant to rules 5101:2-38-05 and 5101:2-38-07 of the Administrative code is not necessary to be added.</p> <p>The case plans are developed within 30 days of opening the case or amended when the youth turns 14. At that time IL services are included. It is unnecessary and additional work for a worker to amend a case 30, 60, or 90 days later just because the IL plan is written when the services are already included in the case plan. SACWIS had a recent fix to prevent the need for ALL independent living services needing to be attached to the case plan. This allows for the IL section to be changed easily and to</p>	<p>This language was added to clarify the true intent of the expected timeline is due within seven days of a change not simply because a youth had is being completed there actually is no change yet and not until an independent living plan does the clock for the seven days to amend effect. Therefore the timeline looks like:</p> <p>Youth in care turns fourteen, the independent living assessment begins to sixty days to complete. Once the assessment is completed the independent living plan is due within 30 days of the completion of the assessment. Once it is amended the independent living plan amendment is to be completed and filed with the court within 7 days</p>



	help base IL on the needs of the young people.	
<p>Kristin Ross</p> <p>Lorain Co.</p> <p><a href="mailto:kristinross@childrenservices.org">kristinross@childrenservices.org</a></p>	<p>First comment is around amending the case plan within 7 days of the initial IL case plan. Typically, case services cause a case plan amendment within 7 days. If we follow what is in this rule, then the case plan will not be amended until 90 days into the Independent living services. Youth are receiving a referral, assessment and case plan all before that time. I believe it should reflect that a case plan amendment should be completed 7 days from the child's 14th birthday.</p> <p>Second comment revolves around the credit reports. I don't know if this is possible, but is there any way to push the credit reports back to the child's 17th birthday. This way, that would still allow for time to clear the youth's name if there is a hit on their credit report. It seems that completing it yearly from all 3 credit agencies, between the ages of 14-18 is excessive.</p>	<p>This language was added to clarify the true intent of the expected timeline. The rule is due within seven days of a change not simply because a youth had a change. If a change is being completed there actually is no change yet and not until the independent living plan does the clock for the seven days to amend. Therefore the timeline for the looks like:</p> <p>Youth in care turns fourteen, the independent living assessment begins. The assessment is due to sixty days to complete. Once the assessment is completed the independent living plan is due within 30 days of the completion of the assessment. Once it is completed the independent living amendment is to be completed and filed with the court within 7 days.</p> <p>The federal requirements are clear that independent living services begin when a youth in care turns 14 years of age and this includes credit reports from all three agencies on an annual basis.</p> <p>Thank you for your interest in this process.</p>

**9. 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.



**10. 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?**

No alternatives were considered. Rule is being amended to adhere to federal mandates in Public Law 113-183 and H.B. 50, 131<sup>st</sup> General Assembly.

**11. 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.***

No. Changes have been made to adhere to federal mandates in Public Law 113-183 and H.B. 50, 131<sup>st</sup> General Assembly.

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

ODJFS Legal staff, Legislative staff and rule developers diligently review rule to assure there is no duplication of existing regulations.

**13. 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.**

The rule does not prescribe any practice that would not be applied consistently or predictably. ODJFS licensing specialists review the agencies to ensure consistency, and staff offer technical assistance in any areas of question or concern.

**Adverse Impact to Business**

**14. 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;**

Rule requirements must be met to maintain certification for 28 PCPAs.

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

The time and money to provide independent living services to youth in care. The time and money to conduct life skills assessment for each youth after the age of fourteen in foster care. The time and money to develop written independent living plans and submit to the courts. The time and money to provide independent living services training to caregivers. The time and money to request three credit reports for each child on a yearly basis. The time and money to develop the final transition plan and

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the time and money to coordinate with the department of health, the Social Security Administration and the bureau of motor vehicles (BMV) to ensure each youth obtains documents before emancipating from care.

**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.*

If an agency were to pay on average a caseworker \$10 per/hour, it is an estimate that the:

Independent living services would be provided per child anywhere from 4 hours to 8 hours a month. The life skills assessment may take up to 5 hours (youth and caregiver). The written IL plan and submission to court takes approximately 2 hours per child. To train the caregivers it is estimated that it takes 18 hours in this particular skill area. It is estimated to complete a credit report for each child on a yearly basis, it takes approximately 1 1/2 hours. It is estimated it takes up to 2 hours to develop a final transition plan and approximately 3 hours to coordinate with outside departments to obtain documents.

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

In order to be in compliance with federal mandates of Public Law 113-183.

**Regulatory Flexibility**

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

There is no alternative means of compliance.

**17. 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 is no fine or civil penalty for non-compliance other than the forfeiture of certification through denial or revocation.

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

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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.