

**MEMORANDUM**

**TO:** Becky Phillips, Ohio Department of Developmental Disabilities

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** November 30, 2018

**RE:** **CSI Review – Early Intervention (OAC 5123:2-10-01, 5123-10-01, 5123-10-02, 5123-10-03, and 5123-10-04)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

This rule package consists of four new rules and one rescinded rule proposed by the Ohio Department of Developmental Disabilities (DODD). The rule package was submitted to the CSI Office on September 21, 2018 and the public comment period was held open through October 5, 2018. Seven comments were received and the Department provided a response document on November 5.

The rules in this package set forth the requirements for Ohio's Early Intervention (EI) program, which provides services to young children with developmental disabilities. Ohio Administrative Code (OAC) 5123:2-10-01 is being rescinded and replaced with new rule OAC 5123-10-01, which addresses the system of payments for EI services. This rule retains the majority of the previous language of the rule and includes amendments that reflect the addition of new rules. OAC 5123-10-02 establishes procedural safeguards for EI services, including parental consent and notice, confidentiality, and dispute resolution. OAC 5123-10-03 sets forth requirements for the program, including eligibility, evaluation, individualized service plans, and exiting the EI program. OAC

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5123-10-04 details the credentials required for EI service coordinators and EI service coordination supervisors.

During early stakeholder outreach, DODD provided the rules to the Department's Early Intervention Advisory Council and Stakeholder Group and discussed them in several meetings. During this time, stakeholders provided comments and suggestions which were largely incorporated into the rules. During the CSI public comment period, DODD received comments from seven stakeholders. Many of the comments suggested clarification or different terms for sections of the rules. DODD made changes where appropriate, except where federal statute or significant stakeholder investment necessitated the language. Two stakeholders suggested changes to clarify the requirements for written notice of meetings, which DODD included in the rules.

The business community impacted by these rules includes the 45 EI service providers operating in Ohio. The adverse costs created by these rules include the time and effort necessary to obtain certification and ensure safeguarding of families through administrative measures. Providers must enter into a contractual relationship with DODD, which requires approximately 6.5 hours to complete. DODD states that providing safeguards for individuals, which includes obtaining parental consent and maintaining confidentiality, can vary in the amount of time based on the procedures of the provider and the number of families that are being served. EI Service Coordinators must complete 40 hours of training for initial certification, followed by 50 hours to be completed within five years. EI service Coordination Supervisors must complete six hours of training for initial certification and 37 hours of training within five years. DODD states in the BIA that these requirements are necessary to comply with the federal Individuals with Disabilities Education Act. After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

### **Recommendations**

For the reasons described above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

Based on its review of the proposed rule package, the CSI Office recommends the Ohio Department of Developmental Disabilities should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.