

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: The Ohio Department of Job and Family Services

Regulation/Package Title: Independent Living Services

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

Date: 2-19-15

**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☐ Rescinded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 solely to implement the federal mandates of Public Law 113-183, the "Preventing Sex Trafficking and Strengthening Families Act" (9/2014), which lowers the age children in foster care must be engaged in their case planning from age sixteen to age fourteen. The Adoption Foster Care Analysis and Reporting System (AFCARS) is a federally required national database reporting system that collects case-level information on all foster and adoptive children with Title IV-E agency involvement. The system requires the usage of certain terminology for reporting purposes and thus the requirement to add the words "Medical and

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"Ethnicity" and change the reference from "Sex" to "Gender" within the rule is being included to comply with the data systems requirements.

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

**5101:2-42-19 Requirements for the provision of independent living services to youth in custody** sets forth the requirements for PCPAs to prepare youth for the transition from agency custody to self-sufficiency. This rule has been amended to implement a federal change in age requirement for the provision of independent living assessments and services.

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

<b>Rule Number</b>	<b>Statutory Authority</b>
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5101:2-42-19	5101.141, 5103.03, 5153.166
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**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?**

Yes, this rule implements the provision 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.**

This rule does not exceed federal requirement.

**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 new federal mandate would allow younger children more time to absorb and practice life skills needed toward independence. If the state and county agencies failed to comply, the federal government could possibly impose fines and loss of public welfare funding.

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

The agency will measure the success of the amendments to this regulation through consistent compliance with the federal mandates of Public Law 113-183.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

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The proposed changes to this rule were open for a pre-clearance comment period for 30 days; and a two week clearance comment period from January 23, 2015 to February 6, 2015 for all 88 county public and private constituents/agencies.

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

Attached are the stakeholders and the questions posed to the department. There are no changes to the rule as a result of stakeholders input. Enclosed within the comments are the responses to the stakeholders addressing why the state is not considering the change to rule. The agency is amending the rule at this time to incorporate federal mandates.

Name	Comment
Linda Donley	<p>Suggest section (D)(1)(b) changed to read "Preparation towards a high school diploma or a GED."</p> <p>Suggest section (D)(2)(d) to read "Help completing college, grant, or loan applications."</p> <p>Response: Thank you for your inquiry. The wording is based on federal language and at this time the language will not change.</p>
Pamela Carter	<p>Does the age change apply to Chafee also? According to 5101:9-6-35 the age requirement says 15 and older.</p> <p>Response: Thank you for your comment. The federal legislation takes into account the age of fourteen. Any references to age within rule are being revised.</p>
Kelly Hickie	<p>I understand the need for these services for our youth and appreciate the thought behind the rule (and the federal mandates that first brought it about), however, we have concerns with this rule change for a variety of reasons.</p> <p>1.) the new rules and law in effect saying youth under 16 cannot be PPLA (except for the rare circumstance) so youth at age 14 and 15 would either be reunifying or going PC. Emancipation would not be a goal. We feel this new rule is in contradiction to those laws/rules. A youth on a reunification plan should be more focused on services designed to help the reunification plan occur, the barriers to reunification is rarely a lack of IL skills on behalf of the children. However, we are often working an IL plan of sorts with the parents as we are teaching them about basic needs, etc.</p> <p>2.) The staffing and time that it would take to implement a full IL program for youth age 14-15 may be insurmountable for some counties/ agencies both in terms of staff and in terms of finances. We have had to add a position solely for doing IL services with youth just to cover the 16-18 year olds and post emancipation services. To add on younger youth as an addition would require more staff and time which many counties are not able to provide. While this rule sounds wonderful on paper, the fear is that it will not easily be implemented and becomes an unfunded mandate.</p> <p>3.) There is always a debate about whether we are the "parent" or which parental rights are still</p>

	<p>maintained when we have TC of a child, if a child is on a reunification plan, we are only the acting temporary parent and that child would reunify prior to their age of emancipation therefor could learn the skills through their home environments prior to being on their own.</p> <p>4.) If there is no way to avoid this addition of services due to the new federal mandates, it is strongly recommended that a tier system be put in place. If 14 is the age that is going to happen, maybe provide a "IL light" (for lack of a better term) to 14-15 year olds by having the IL worker check in every six month as opposed to monthly/quarterly and focus on 1-2 main areas (education and vocation) versus all the areas taught/discussed with 16-18 year olds. We have a hard enough time as staff getting 16-18 years olds focused on their future (with their future's looming around the corner) let alone 14-15 year olds who developmentally are still in the stage of complete self-absorption. If the federal mandates do not require a full blown IL program for this age group, the state (or even counties) could determine what would be appropriate.</p> <p>Response: Thank you for your inquiry. The intention to locate a stable, safe home for any child in care does not change. It is the goal to allow young adults to be proficient in skills and tasks needed to be self -supportive and self- sustaining. As the state functions currently, county agencies may have room to programmatically create an internal design that best utilizes the staff and resources of the county while still meeting the federal mandates.</p>
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**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. The amended rule is being revised to strictly adhere to federal mandate in Public Law 113-183.

**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

The changes to the amended rule strictly adhere to federal mandate in Public Law 113-183.

**12. 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 no duplication of an existing Ohio regulation.

**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.**

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The rule does not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and staff offer technical assistance in areas of inconsistency.

### **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;**

Requirements must be met to obtain and/or maintain certification for 28 PCPAs and 133 PNAs

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

The impact of this revision will cause an increase in the number of children needing: an independent living assessment, IL plan, skills assessment, training for their foster caregivers, consumer credit report and obtaining required documents. The rule now will include the fourteen and fifteen year old children in care; on average an additional 2000 children statewide will need to be assessed. Each assessment is unique to each child and the amount of time required to complete it would depend on many circumstances surrounding the individual needs of the child. For example, the assessments include academic support, academic counseling, study skills, tutoring, career preparation, job coaching, job seeking skills, budgeting, fiscal management, housing management, food preparation, hygiene skills, laundry, health education, mentoring and credit reports.

**c. Quantify the expected adverse impact from the regulation.**

Based on the average of 1000 youth emancipating from custody per year, adding 14 and 15 year old children could add the need to assess 2000 more independent living assessments and plans per year. The impact would be the time spent adhering to rule regulations and reporting the information necessary for rule compliance.

**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.**

**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 the 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.**

For this rule 5101:2-42-19, 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?**

For rule 5101:2-42-19 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?**

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.