

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: The Ohio Department of Job and Family Services

Regulation/Package Title: FYR of OAC 5101:2-42-19

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

Date: 10/20/18

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☐ Rescinded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

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 sets forth the requirements for PCSAs and PCPAs to prepare youth for the transition from agency custody to self-sufficiency. Content has been amended to implement provisions of The Family First Prevention Services Act, Public Law 115-123; to clarify services and to make minor grammatical changes.

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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Rule Number Statutory Authority

5101:2-42-19 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.

In part, this rule implements provisions of the Family First Prevention Services Act, Public Law 115-123.

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 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)?

To provide guidelines for public children services agencies (PCSAs) or private child placing agencies (PCPAs) to prepare youth for the transition from agency custody to self-sufficiency.

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

This rule is monitored through the certification process.

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.

This rule has been reviewed by the public children service agency organization (PCSAO), county workers, and the Ohio Youth Advocate Board.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency? **This rule went through the ODJFS clearance process from September 26, 2018 to October 10, 2018 and did not receive any comments.**

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?

There were no alternatives considered for this rule 5101:2-42-19 as all parties involved were satisfied with the rule and because the rule is driven by statute.

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.

ODJFS did not consider a performance based initiative, but rather followed statutory language prescribing that the department set standards to ensure the well-being of every child in temporary custody.

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

The JCARR prong for invalidation: "Rules do not conflict with a rule of its own or another rule-making agency" has been an ongoing deterrent to duplication. 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.

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and that they 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:
- Identify the scope of the impacted business community;

The rules of the Administrative Code in Chapter 5101:2-42 contain requirements for children in temporary custody being placed into substitute care by public and private agencies. Requirements must be met to obtain and/or maintain certification for PCPAs.

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

5101:2-42-19 – The PCPA must provide services to assist youth in custody toward the transition of emancipation and independence, e.g. procuring birth certificate, letter verifying youth was in custody, social security card, health and education records. The agency is also to create a final transition plan preparing the youth in housing, education, transportation. These variables depend upon the unique business model of each agency and the cost will vary. The services provided are practical and familiar to the work of each PCPA and have been in existence for a very long time.

- 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.

The adverse impact would only be regulated to time spent adhering to rule regulations and reporting the information into the state automated child welfare information system (SACWIS) necessary for rule compliance.

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

To ensure the safety of children in substitute care, the adverse impact of this rule is necessary.

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?

For rule 5101:2-42-19, there are no fines or civil penalties 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.