

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-1-01

**Rule Type:** Amendment

**Rule Title/Tagline:** Children services definitions of terms.

**Agency Name:** Department of Job and Family Services

**Division:** Division of Social Services

**Address:** 30 E Broad Street Columbus OH 43215

**Contact:** Michael Lynch **Phone:** 614-466-4605

**Email:** Michael.Lynch@jfs.ohio.gov

#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 5/29/2024
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 2151.412, 2151.421, 5103.03, 5103.6018, 5103.617, 5153.166
5. **What statute(s) does the rule implement or amplify?** 2151.01, 2151.011, 2151.031, 2151.421, 5103.03, 5153.16
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

Five Year Rule Review
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule contains the definitions of terms used in Chapters 5101:2-5, 5101:2-7, 5101:2-9, 5101:2-33, 5101:2-36, 5101:2-37, 5101:2-38, 5101:2-39, 5101:2-40, 5101:2-42, 5101:2-44, 5101:2-45, 5101:2-46, 5101:2-47, 5101:2-48, 5101:2-49, 5101:2-50, 5101:2-51, 5101:2-52, 5101:2-53, 5101:2-55, and 5101:2-56 of the Administrative Code.

The rule has been reviewed as part of the five-year rule review process in which numerous definitions were changed, added, or removed. Changes to definitions within the rule were also a direct result from the revisions contained in Chapter 5101:2-36 Screening and Investigation.

9. **Does the rule incorporate material by reference? Yes**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to a federal act or acts. This question is not applicable to any incorporation by reference to federal acts because such reference is exempt from compliance with RC 121.71 to RC 121.74 pursuant to RC 121.75 (A) (2)(c).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

This rule also incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(a).

This rule incorporates one or more references to a form or a digital application into which data is entered. This question is not applicable to any incorporation by reference to forms or digital data applications because such reference is exempt from compliance with RC 121.75 to 121.74 pursuant to RC 121.75 (B) (4).

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

No new costs.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

### **III. Common Sense Initiative (CSI) Questions**

- 17. Was this rule filed with the Common Sense Initiative Office? No**

- 18. Does this rule have an adverse impact on business? No**

**A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

**B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

**C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
- A. How many new regulatory restrictions do you propose adding to this rule? 0
- B. How many existing regulatory restrictions do you propose removing from this rule? 27

5101:2-1-01 (65) "Child care center" and "center" means any place child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care is provided for seven to twelve children at one time. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator or employee and are on the premises of the center shall be counted.

5101:2-1-01 (86) "Court order of priority placement" means a court order prepared by an Ohio judge or a judge in another state, which designates that a specific child's interstate placement shall be made on a priority basis in order to meet the special needs of the child and to expedite the procedures between agencies and states involved in the child's placement across state lines.

5101:2-1-01 (104) "Dispositional hearing," pursuant to sections 2151.35 to 2151.355 and 2151.414 of the Revised Code, means a hearing held by the juvenile court to determine what action shall be taken concerning a child who is within the jurisdiction of the court.

5101:2-1-01 (139) (a) Gives a maximum of ten children, including the children of the operator or any staff who reside in the facility, nonsecure care and supervision twenty-four hours a day for hire, gain, or reward by a person or persons who are unrelated to such children by blood or marriage, or who is not the appointed guardian of such children. Any individual who provides care for children from only a single-family group, placed there by their parents or

other relative having custody, shall not be considered as being a group home for children.

5101:2-1-01 (160) "Independent living arrangement" means any living environment provided by an agency including service programs and activities to assist youth fourteen years of age and older to make the transition from substitute care to adulthood. If a youth who is sixteen or seventeen years of age is placed in an independent living arrangement, the youth shall be placed in housing that is supervised or semi-supervised by an adult per section 2151.82 of the Revised Code.

5101:2-1-01 (181) "Legal custody" means a legal status vesting in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities.

5101:2-1-01 (181) An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

5101:2-1-01 (183) "Lifebook" is a record of the child's life which helps identify events in the child's past, including what happened while in agency care. The record shall include a chronological listing of such events and relationships in the child's life. Photographs may be used to depict events in the life book.

5101:2-1-01 (201) (h) Nothing in Chapter 2151. of the Revised Code shall be construed as subjecting a parent, guardian, or custodian of a child to criminal liability when solely in the practice of religious beliefs, the parent, guardian, or custodian fails to provide adequate medical or surgical care or treatment for the child.

5101:2-1-01 (214) "Parental rights" is the authority of a child's parents to make all decisions regarding the child's care and control including, but not limited to, the determination of where and with whom the child shall live and the right to protect, train, and discipline the child and provide the child with food, shelter, education, and medical care.

5101:2-1-01 (217) "Permanency plan" shall have the same meaning as the case plan.

5101:2-1-01 (221) "Physical restraint" means a therapeutic holding technique(s) with the intent to minimize or prevent harm when the child has lost control of his or her actions in such a way as to threaten harm to self or others. Physical restraint shall not be used as a planned intervention until after other less restrictive procedures or measures have been explored and found to be inappropriate.

5101:2-1-01 (221) At no time shall physical restraint be used as punishment or for staff convenience.

5101:2-1-01 (241) "Priority placement" means a placement status, based upon the findings by an Ohio court or a court in another state, designating that a specific child's interstate placement shall be made on a priority basis in order to meet the special needs of the child and to expedite the procedures between agencies and states involved in the child's placement across state lines.

5101:2-1-01 (255) "Putative father registry" is a registry established and maintained by the ODJFS to allow a putative father to register should he wish to be given notice of a petition to adopt a minor he claims as his child. The registry will allow a mother, agency or attorney to search and either confirm or deny if a child has a registered putative father and thus shall be contacted prior to finalization of the adoption.

5101:2-1-01 (262) "Recruitment" is the action and effort by a PCSA, PCPA, or PNA to provide information alerting the community of the need for foster homes and adoptive homes for children. Recruitment activities by a PCSA, PCPA or PNA must be directed at the general public as well as conducted on an individual basis for specific children.

5101:2-1-01 (268) "Repeat offender" means a person who has been convicted of or pleaded guilty to any of the offenses listed in rules contained in Chapters 5101:2-5, 5101:2-7 and 5101:2-48 of the Administrative Code two or more times in separate criminal actions. Guilty pleas or convictions resulting from or connected with the same act, or from offenses committed at the same time, shall be counted as one conviction or guilty plea.

5101:2-1-01 (287) "Safety response" means the determination of whether a child is safe or whether a PCSA shall implement a safety plan to control any identified safety threat. The types of safety responses are safe, in-home safety plan, out-of-home safety plan, or legally authorized out-of-home placement.

5101:2-1-01 (301) (a) Medical and surgical costs as determined by a licensed physician. If the child has a medical problem needing treatment, investigation shall be made of the adoptive family's medical insurance, medicaid and other resources to determine whether the costs of treatment could be covered by these resources. If not, the subsidy could provide the necessary funds.

5101:2-1-01 (301) (b) Psychiatric, psychological, or counseling costs as determined by a licensed psychiatrist, licensed psychologist, licensed professional counselor, licensed independent social worker or a licensed independent marriage and family therapist. This may also include counseling sessions for the child or adoptive family to help integrate the child into the adoptive family. If the child has a psychiatric or psychological condition needing treatment, investigation shall be made of the adoptive parent's medical insurance, medicaid and other resources to determine whether the costs of treatment could be covered by these resources. If not, the subsidy could provide the necessary funds.

5101:2-1-01 (312) "Substance Use Disorder (SUD) Residential Facility" means a family-based residential treatment facility for adults with substance abuse licensed by Ohio mental health and addiction services that allows the placement of child(ren) with a parent. A SUD residential facility shall meet the following programmatic criteria:

5101:2-1-01 (326) "Third party" means the requirement that a PCSA request the assistance of law enforcement or another PCSA or both when conducting an assessment/investigation due to the potential conflict of interest a PCSA may have assessing/investigating an entity.

5101:2-1-01 (337) "Treatment team" means the group of individuals who formulate, assess, monitor and revise, as needed, the child's service plan. The treatment team shall include, but is not limited to:

5101:2-1-01 (338) "Treatment team leader" means the member(s) of the treatment team with primary responsibility for day-to-day leadership of the treatment team and for preparation of the written service plan and any revisions thereto. The treatment team leader shall be a professional treatment staff member, as defined in paragraph (B) (334) of this rule, of the treatment or medically fragile foster care program or the child's treatment or medically fragile foster caregiver if the foster caregiver is appropriately licensed/certified to perform the functions of a treatment team leader.

5101:2-1-01 (338) Nothing in this definition shall prohibit a treatment team from being co-led by more than one individual.

5101:2-1-01 (340) (a) In counting children for the purposes of this rule, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted.

5101:2-1-01 (340) (a) Children six years of age or older who are related to the provider and who are on the premises of the "type B home" shall not be included in this count.

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable