



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Mike Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Business Advocate

DATE: October 5, 2023

RE: **CSI Review – Scholars Residential Center Rules (OAC 5101:2-5-03, 5101:2-5-18, 5101:2-9-42 and 5101:2-9-45)**

On behalf of Lt. Governor Jon Husted, 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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of one new rule and three amended rules proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on September 18, 2023, and the public comment period was held open through September 25, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 18, 2023.

Ohio Administrative Code (OAC) 5101:2-5-03 establishes requirements for certifying an agency to perform specific functions, including the operation for residential centers, group homes, and other facilities, as well as acting as a representative for ODJFS when recommending facilities for certification. The rule is amended to allow for public children services agency (PCPA) and private noncustodial agency (PNA) certification to operate a scholars residential center (SRC). OAC 5101:2-5-18 provides guidelines to request a waiver from rule requirements and is amended to include SRCs and language that allows an agency to request a waiver for a foster home in the event of a disaster or emergency where part of the home becomes unusable. OAC 5101:2-9-42 concerns qualified residential treatment programs (QRTPs), including requirements for qualification as a QRTP. The rule is amended to specify that SRCs do not qualify as QRTPs. OAC 5101:2-9-45 is a new rule that

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establishes requirements for SRCs. The rule lists qualifications for facilities, including that the facility be a certified affiliate in good standing with a national organization, is private and not-for-profit, does not receive Title IV-E funding or Title IV funds related to child welfare, and only accept direct placement of children by their parents or legal guardians. The rule also provides requirements for PNAs when acting as a SRC, exemptions for SRCs, training requirements for staff, and requirements to provide notification and documentation of critical incidents.

During early stakeholder outreach, ODJFS sent the proposed rules to industry stakeholders for feedback. No comments were received during that time, although ODJFS points towards the efforts of the Boys Hope Girls Hope organization in proposing SRC language to HB 33 of the 135th General Assembly. No comments were received during the CSI public comment period.

The business community impacted by the rules includes public children services agencies, PCPAs, and PNAs. The adverse impacts created by the rules include the time and cost required to maintain provider certification. ODJFS states that the time and effort required varies based on the number of providers and estimates that a program with ten employees would incur monthly compliance costs of approximately \$1,850. ODJFS states that the adverse impacts created by the rules are necessary to comply with statutory requirements and to provide structure for services provided to children in out-of-home residential facilities.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that ODJFS should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.