



August 1, 2023

Family, Children and Adult Services Manual Transmittal Letter No. 526

TO: Family, Children and Adult Services Manual Users

FROM: Matt Damschroder, Director

SUBJECT: Revision of Ohio Administrative Code Rule 5101:2-42-65.1

This letter transmits amendments to one Ohio Administrative Code (OAC) rule regarding children in substitute care as a result of the five-year review process. The rule will be effective August 15, 2023. The following is a brief explanation of the changes:

OAC rule 5101:2-42-65.1 entitled **Exit Interviews when a Child in Custody Leaves an Out of Home Placement** outlines the requirement for an exit interview to be completed each time a child leaves a foster care placement. This rule has been revised to remove the requirement that the interview be completed only by a caseworker. Public Children Services Agency (PCSA) is revised to Title IV- E Agency throughout the rule. Section (E)(2) was also revised easing the exit interview requirement for placements of less than seventy-two hours, from the previous version of twenty-four hours.

INSTRUCTIONS: The following chart indicates the material that should be removed from the Family, Children and Adult Services Manual (FCASM) and the materials that are to be inserted in the FCASM.

LOCATION	REMOVE AND FILE AS OBSOLETE	INSERT/REPLACEMENT
Social Services	OAC 5101:2-42-65.1	OAC 5101:2-42-65.1
Transmittal Letters		FCASMTL No. 526

5101:2-42-65.1 **Exit interviews when a child in custody leaves an out of home placement.**

- (A) The ~~public children services agency (PCSA)~~ title IV-E agency or private child placing agency (PCPA) that holds custody of a child shall conduct a face to face exit interview with every child age five and older, as developmentally appropriate, within seven days after the child's exit from each foster care placement.
- ~~(1) The interview shall be completed by an individual allowed to make caseworker visits in accordance with rule 5101:2-42-65 of the Administrative Code.~~
- ~~(2)~~(1) The information gathered during the interview shall be dependent on the age and developmental level of the child. The interviewer's observations and any information to explain the child's responses shall be recorded on the JFS 01678 "Foster Care Exit Interview." ~~(10/2013)~~.
- ~~(3)~~(2) If the child alleges abuse, neglect or any maltreatment during the exit interview, the interviewer shall make a report in accordance with section 2151.421 of the Revised Code.
- (B) The ~~PCSA~~ title IV-E agency shall complete the interview form in the Ohio statewide automated child welfare information system (SACWIS).
- (C) The PCPA shall complete the JFS 01678 and place it in the child's case record and the caregiver's record. If the caregiver is not certified by the PCPA, the PCPA shall send a copy of the form to the recommending agency of the caregiver within seven days of the completed interview.
- (D) Upon receipt of the form, the recommending agency shall discuss any concerns with the foster parent. If deemed necessary by the recommending agency, an action plan shall be developed within thirty days of the date the agency was notified of the concern. The plan may include but is not limited to providing more intense supervision, support, or training for the caregiver. If the concern warrants a rule violation investigation, then rule 5101:2-5-28 of the Administrative Code shall apply and may result in more formal enforcement, up to and including revocation of the foster home certificate.
- (E) The ~~PCSA~~ title IV-E agency or PCPA is not required to complete the exit interview:
- (1) When children in their custody are moved from residential care facilities or non-licensed providers.
 - (2) When a child was in the placement for less than ~~twenty-four~~ seventy-two hours.
 - (3) When the child's placement type changes from foster care to adoption and the child remains in the same home.

Effective: 8/15/2023

Five Year Review (FYR) Dates: 5/22/2023 and 08/15/2028

CERTIFIED ELECTRONICALLY

Certification

07/31/2023

Date

Promulgated Under: 119.03
Statutory Authority: 2151.412, 2151.421, 5103.03, 5153.166
Rule Amplifies: 2151.412, 2151.421, 5103.03, 5153.16
Prior Effective Dates: 06/01/2013, 08/01/2018



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

Mike Lynch -Michael.Lynch@jfs.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Exit Interview Requirements

Rule Number(s): 5101:2-42-65.1

Date of Submission for CSI Review: 4/28/23

Public Comment Period End Date: 5/5/23

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 1 rules (FYR? X)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please briefly describe the draft regulation in plain language. *Please include the key provisions of the regulation as well as any proposed amendments.***

OAC rule 5101:2-42-65.1 entitled Exit Interviews when a Child in Custody Leaves an Out of Home Placement outlines the requirement for an exit interview to be completed each time a child leaves a foster care placement. This rule has been revised to remove the requirement that the interview be completed only by a caseworker. Section (E)(2) was also revised easing the exit interview requirement for placements of less than seventy-two hours, from the previous version of twenty-four hours.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Rule Number	Statutory Authority
Rule 5101:2-42-65.1	ORC 2151.412, 2151.421, 5103.03, 5153.166

- 4. 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.***

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Rule 5101:2-42-65.1 does not implement a federal regulation and is not being established to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

- 5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Rule 5101:2-42-65.1 is not written as a requirement of Federal Law.

- 6. 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)?**

The purpose of rule 5101:2-42.65.1 is to ensure the safety of children in foster care by requiring agency workers ask specific questions regarding the child's experience in each foster care placement.

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

The success of this rule can be measured by the information received from each child regarding their most recent foster care placement. The completion of the exit interview can be monitored by each individual Title IV-E agency, recommending agency, and ODJFS technical assistance and licensing specialists through SACWIS reports.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

- 9. 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.

Stakeholder feedback on this rule was received through the ODJFS workforce and rule relaxation review.

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This rule was presented to the Public Children Services Association of Ohio (PCSAO) Rule Committee, including Public Children Services Agencies (PCSAs) on March 9, 2023 providing members the opportunity to give feedback.

This rule also went through the clearance process on March 15, 2023 through March 29, 2023.

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

Feedback received through the ODJFS workforce and rule relaxation review included the recommendation suggesting the removal of the requirement around caseworkers completing the interview. This recommendation was incorporated into the rule, thus allowing the interview to be completed by other staff based on the needs of their individual agency and workforce availability.

The PCSAO rules committee recommended allowing other PCSA staff the ability to complete the interview. The committee also provided feedback about the important information PCSAs receive through the interviews and the value of empowering the youth voice on their experience in foster care.

Stakeholder clearance comments recommended easing the exit interview requirement for placements of less than twenty-four hours. The rule was amended to not require an exit interview be completed for placements of less than seventy-two hours.

An additional stakeholder clearance comment recommended removing the exit interview requirement by rescinding the rule. This recommendation was not adopted, as foster children and youth benefit from the exit interview opportunity that provides a formal channel for feedback. Additionally, county PCSAs offered feedback through the comment process supporting the exit interview policy.

11. 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.

12. 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? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

No other alternatives were considered appropriate.

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

This rule does not conflict with other requirements, nor does it duplicate an existing Ohio regulation.

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14. 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.

ODJFS licensing specialists and technical assistance specialists review the agencies to ensure all regulations are applied consistently and that technical assistance is offered in areas of inconsistency. Once this rule is final filed, a transmittal letter will be generated explaining the changes to the rule and the rationale for such changes.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community, and**
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

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.

- a. Scope of impacted business community:

Over 100 public and private agencies may be impacted by the requirements of this rule, although the specific number may vary slightly due to monthly openings or closings of private agencies.

- b. Quantify and identify the nature of adverse impact:

The rule requires that agencies complete the exit interview with each child after they leave each placement setting, which in turn requires the exit interview form be completed. The adverse impact would entail the time spent completing each interview with each child and then also completing the required corresponding form. Time involved capturing the information on the form could be a potential adverse impact.

The quantifying factors include the number of placements each agency has, the number of times each child leaves a placement, and the specific amount of time spent completing the form. The amount of time spent could range from several minutes to an hour. The anticipated cost to comply with this rule would depend on the wage for the specific worker. The current average wage for a social worker in the State of Ohio is \$22 per hour, according to Zip Recruiter. Therefore, the anticipated cost of compliance for an impacted agency to comply with this rule would range from \$5-\$22, depending on administrative and staffing variables.

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- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

The rule was amended to remove the requirement that the interview be completed by an individual allowed to make caseworker visits. The removal of this requirement allows agencies to identify other agency staff, including case aides, to complete the interview with children.

The rule was also amended to ease the exit interview requirement for placements of less than twenty-four hours, expanding it to placements of less than seventy-two hours. This change will reduce the required number of interviews agencies are to complete, making interviews for placements of less than seventy-two hours optional.

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

The adverse impact of this rule is necessary to ensure the safety of children in substitute care.

Regulatory Flexibility

- 18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

There is no alternative means of compliance.

- 19. 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?**

There are no fines or civil penalties for non-compliance.

- 20. What resources are available to assist small businesses with compliance of the regulation?**

ODJFS has licensing specialists and technical assistance specialists assigned to assist each agency. Agencies also have access to the OFC help desk and all help desk knowledge base articles.

ODJFS publishes all rules online as an e-manual. All public and private agencies have access to this publication, which is located at [ODJFS eManuals \(ohio.gov\)](http://ODJFS eManuals (ohio.gov)).



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: Michael Bender, Business Advocate

DATE: May 19, 2023

RE: **CSI Review – Exit Interview Requirements (OAC 5101:2-42-65.1)**

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 amended rule proposed by the Ohio Department of Job and Family Services (ODJFS) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on April 28, 2023, and the public comment period was held open through May 5, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on April 28, 2023.

Ohio Administrative Code (OAC) 5101:2-42-65.1 requires a Title IV-E agency or private child placing agency (PCPA) that holds custody of a child to conduct a face-to-face exit interview with the child – if the child is at least five years old – within seven days after the child's exit from a foster care placement. Follow-up action, including an investigation of the foster parent or revocation of the foster home certificate, may result if the child alleges abuse, neglect, or maltreatment during the exit interview. The rule is amended to replace the term "public children services agency" (PCSA) with "Title IV-E agency," eliminate the requirement for exit interviews to be conducted only by individuals allowed to make caseworker visits, remove the revision date of the JFS 01678, add "Ohio" before "statewide automated child welfare information system," and extend the timeframe for the exit interview requirement to become effective from less than twenty-four hours in placement

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to less than seventy hours.

During early stakeholder outreach, ODJFS received feedback through its workforce and rule relaxation review. ODJFS also presented the proposed rule to the Public Children Services Association of Ohio (PCSAO) Rule Committee, which includes PCSAs, on March 9, 2023, to obtain feedback. Additionally, the rule went through the ODJFS clearance process from March 15, 2023, through March 29, 2023, with comments received from Cuyahoga County Children and Family Services, the PCSAO, and Summit County Children Services. As a result of these efforts, ODJFS revised the rule to replace the term “public children services agency” with “Title IV-E agency,” remove the requirement that only caseworkers may complete the exit interview, and ease the timeframe for the exit interview requirement to apply. ODJFS denied a request to rescind the rule in its entirety, noting that PCSAs have stated that they receive important information through the exit interviews. No comments were received during the CSI public comment period.

The business community impacted by the rule includes over 100 public and private agencies, particularly PCSAs and PCPAs. The adverse impacts created by the rule include the time necessary to conduct the exit interview and complete the accompanying form. According to ODJFS, this can range from several minutes to about an hour. ODJFS also notes that, citing ZipRecruiter, the average wage for a social worker in Ohio is \$22.00 per hour. ODJFS states that the adverse impacts to business are justified to ensure the safety of children in foster care.

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 rule with the Joint Committee on Agency Rule Review.



ACTION: Final

Department of
Job and Family Services

DATE: 07/31/2023 11:02 AM

Mike DeWine, Governor
Jon Husted, Lt. Governor

Matt Damschroder, Director

TO: Michael Bender, Regulatory Policy Advocate
CC: Joseph Baker, Director of the Common Sense Initiative office

FROM: Denielle Ell-Rittinger, Bureau Chief
Office of Families and Children

RE: CSI Review: Exit Interview Requirements (OAC 5101:2-42-65.1)

OAC rule 5101:2-42-65.1, "Exit interviews when a child in custody leaves an out of home placement."

DATE: May 22, 2023

Thank you for your recent review of the referenced OAC rule. Based upon your recommendation for no changes to the rule, the Office of Families and Children will proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review (JCARR).

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