

EXHIBIT 5

**Guardians' Requested Settlement Items to Insure ICF Choice Honored
(Subject to Revision)**

From the State:

- Guarantee adequate funding of ICF choice.
- Require county boards to offer ICF choice to all individuals seeking services, whether on wait lists or otherwise, and to list the ICF option on their websites.
- Cease downsizing and conversion “benchmarks” on large ICFs. (ORC 5124.67).
- Allow development of ICF facilities on or adjacent to existing ICF sites. (OAC 5123:2-3-08 (C)(7), (C)(8)).
- Remove limit on number of licensed beds in new ICF facilities. (OAC 5123:2-3-08 (C)(5)).
- Remove two per bedroom rule. (ORC 5124.70).
- Remove flat rate (ORC 5124.155) that prevents higher functioning individuals from benefitting from the choice of an ICF.
- Stop financial penalties on ICFs that did not downsize.
- Remove moratorium on new licensed ICF beds. (ORC 5123.196/ OAC 5123:2-3-08(C)(2)).
- Options counseling: Residential options (ICF *and* waiver) should be provided and choice documented at yearly IHP meetings between ICF provider and guardian. Residential options (ICF *and* waiver) should also be provided and choice documented at yearly ISP meetings for waiver recipients with the county board caseworker and guardian. Eliminate third-party options counselors, who are often superfluous and divert valuable tax dollars from the care and treatment of individuals with I/DD.
- Pre-admissions review: Cease waiver bias in pre-admissions review. Both ICF *and* waiver options should be discussed on equal terms and driven by the needs and choices of the individual. Hold county boards accountable for the prompt and efficient handling of all admissions – ICF *or* waiver – so that individuals and providers are not harmed by care delays and providers are promptly reimbursed.
- Do not fund with state tax dollars DD Council, UCEDDs, P&A, and any other advocacy organizations that engage in vilifying, or trying to limit or eliminate the ICF choice. Ensure DD Council has sufficient representation from ICF guardians.
- Cease negative public relation campaigns against the ICF choice. Include ICF families and topics about ICFs in Department of Developmental Disabilities family outreach.

From the County Boards:

- At in-take, inform families of the ICF *and* waiver choices on equal terms and with the needs and choices of the individual as the top priority. Provide list of surrounding ICFs *and* waiver homes.
- When sending yearly wait list notifications to wait-list families, inform them of the ICF choice and provide list of surrounding ICFs.

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- Cease waiver bias in pre-admission review. Both ICF *and* waiver options should be discussed on equal terms and driven by the needs and choices of the individual.
- Promptly and efficiently carryout admissions – ICF *and* waiver – so that families do not incur harmful delays in service provision and so that providers receive full reimbursement.
- Include information about ICFs and a listing of ICFs on county board websites.

From DRO:

- Protect and advocate the rights of all developmentally disabled individuals, including those wanting to live in ICFs, as is your statutory duty. (42 USC § 15043)
- Make public statement that ICFs are one, of many, viable choices for the developmentally disabled.
- Do not fund or participate in activities that vilify or seek to limit or eliminate the ICF choice. Ensure ICF guardians have sufficient representation on DRO board.
- Communicate and uphold the full and fair reading of *Olmstead v. L.C.* to Ohio General Assembly members, state officials, and the public: “We emphasize that nothing in the ADA or its implementing regulations condones termination of institutional settings for persons unable to handle and benefit from community settings . . . Nor is there any federal requirement that community-based treatment be imposed upon patients who do not desire it.” *Olmstead* 527 U.S. at 601-602.