



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

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

Rule Contact Name and Contact Information:

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

OFA: Revision to 5101:2-12-07

Rule Number(s): 5101:2-12-07

Date of Submission for CSI Review: 11/8/2023

Public Comment Period End Date: 11/15/2023

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 1 rules (FYR? N)

Rescinded/___ rules (FYR?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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CSIPublicComments@governor.ohio.gov

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):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **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.

5101:2-12-07 "Administrator Responsibilities, Requirements and Qualifications for a Licensed Child Care Center" outlines the child care center administrator job responsibilities and the required rules and qualifications for meeting the role of administrator. This rule is being amended with the following changes: remove an expired deadline for grandfathered administrators to complete the ODJFS rules review course by December 19, 2021; clarify language in the administrator qualifications appendix for ease of use; and revise the administrator qualifications appendix to remove educational options beyond an associate degree as minimum education requirements for an administrator.

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.**

5104.015 5104.016, 5104.09, 5104.035, 5104.039

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.

Yes, Child Care and Development Fund (CCDF) rules require lead agencies, such as the Department of Job and Family Services, to regulate specific health and safety topics related

to the care of children. The proposed regulations are being adopted to comply with the requirements of the Child Care and Development Block Grant Act of 2014.

- 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.**

The regulations do not exceed federal requirements.

- 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)?**

This rule, promulgated pursuant to the requirements of the Ohio Revised Code, establishes guidelines for child care center administrators working in licensed child care programs.

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

The success of this regulation is determined during licensing inspections, through the monitoring of incident reports submitted by regulated providers and through materials submitted to address non-compliances.

- 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.

Not applicable.

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.

The Child Care Advisory Council consists of twenty-two voting members appointed by the director of the Ohio Department of Job and Family Services as prescribed in section 5104.08 of the Ohio Revised Code. The council reviewed this rule on 07/27/2023.

The rule was also available for the public clearance period from 09/27/2023 through 10/11/2023.

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

The Child Care Advisory Council did not have any input requiring changes to the rules.

ODJFS received one comment during the public clearance period. The feedback was responded to and did not affect the draft rule being proposed.

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.

This rule was promulgated to comply with the statutory requirements of ORC 5104.; therefore, alternative regulations were determined to be inappropriate.

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

Rules are reviewed by ODJFS rule specialists and legal staff to ensure there is no duplication of our agency or other agency rules.

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 utilize a software system to inspect licensed centers and family child care homes. ODJFS help desk staff provides support and assistance to licensed child care centers, family child care providers and families regarding the provisions of the rules. Formal notification of the rules is provided to child care centers, family child care providers, child day camps, families, and others by use of an eManual for child care which is located at <http://emanuals.odjfs.state.oh.us/emanuals/>.

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

There are approximately 3,892 licensed child care centers throughout Ohio.

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.

There are no anticipated new costs of compliance as a result of this rule. The ongoing costs of compliance cannot be estimated because costs will vary from program to

program depending on their business model. In the event that a child care provider onboards a new child care center administrator, there would be a cost of compliance, but this can vary widely across individual providers.

- 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*).**

Changes have been made for clarity and readability.

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

The regulatory intent justifies the impact child care programs may incur because these licensing standards are mandated to ensure the health and safety of children. Ohio Revised Code requires child care centers and family child care providers to be regulated.

Regulatory Flexibility

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

No. Licensing standards for child care centers and family child care providers are mandated by the Ohio Revised Code.

- 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?**

Not applicable.

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

ODJFS provides technical assistance through technical assistance staff, technical assistance documents, emails, eblasts, eManual, and help desks.

ODJFS provides the following:

Child Care Policy Help Desk:

CHILDCAREPOLICY@jfs.ohio.gov

1-877-302-2347 option 4

Manual for child care located at: <http://emanuals.odjfs.state.oh.us/emanuals/>

5101:2-12-07

**Administrator responsibilities, requirements and qualifications
for a licensed child care center.**

(A) What are the requirements to be an administrator in a licensed child care center?

- (1) Be named on the child care center license.
- (2) Written documentation verifying the administrator's qualifications ~~shall~~is to be kept on file at the center or verified documentation is available for review in the Ohio professional registry (OPR). Administrators ~~shall~~are to meet the education requirements detailed in appendix A to this rule.
- (3) A person named as administrator, who was promoted from within, and who does not meet the requirements of appendix A to this rule within one year of being named as administrator, ~~may~~is to no longer serve as the administrator. The person also ~~may~~is not to be named administrator at another location until the administrator qualifications have been met.
- (4) The administrator ~~shall~~is to complete a rules review course provided by the Ohio department of job and family services (ODJFS).
 - (a) Administrators ~~shall~~are to complete the rules review course within six months of the date of their appointment and every five years thereafter.
 - ~~(b) Any current administrator who completed the course prior to December 31, 2016 shall complete the training again by December 19, 2021.~~
 - ~~(c)~~(b) Verification of completion of the rules review course ~~shall~~is to be documented in the OPR.
- (5) The administrator is to complete the staff orientation training as prescribed by ODJFS within thirty days of being named administrator at the center or the administrator has documentation of completion of the child care center staff orientation or child care center pre-licensing training after December 31, 2016.

(B) What are the responsibilities of the administrator in a licensed child care center?

The administrator is to:

- (1) Be responsible for the daily operation of the child care center and for maintaining compliance with Chapter 5104. of the Revised Code and Chapter 5101:2-12 of the Administrative Code.

- (2) Be on-site a minimum of one-half of the hours that the child care center is in operation during the week, or forty hours per week, whichever is less. If there is more than one administrator, at least one administrator is to meet this requirement.
 - (3) For child care centers that are in operation on the weekends and/or evenings/overnights, as well as during the week, be on-site at the center at least twenty hours per week during the hours of six a.m. to seven p.m., Monday through Friday. If there is more than one administrator, at least one is to meet this requirement.
 - (4) Post the administrator's scheduled hours of availability to meet with parents in a noticeable location.
 - (5) Be responsible for the creation, maintenance and implementation of the policies and procedures detailed in appendix B to this rule. Nothing in these policies shall conflict with Chapter 5104. of the Revised Code or Chapter 5101:2-12 of the Administrative Code, and if applicable, Chapter 5101:2-16 or 5101:2-17 of the Administrative Code. A copy of these policies and procedures ~~shall~~is to be available on-site at the center.
 - (6) Provide the parent and all employees with the policies and practices in appendix B to this rule.
 - (7) Provide a copy of appendix C to this rule to the parents of the children enrolled in the center.
 - (8) Make available the current licensing rules in a noticeable area on the premises. The rules may be made available via paper copy or electronically.
 - (9) Upon request, provide a parent with any information necessary for the parent to compile child care related expenses for income tax preparation, including tax identification numbers.
 - (10) Cooperate with other government agencies as necessary to maintain compliance with Chapter 5101:2-12 of the Administrative Code.
 - (11) Ensure that no administrator, employee, licensee or child care staff member discriminates in the enrollment of children upon the basis of race, color, religion, sex, disability, or national origin.
- (C) What are the OPR and documentation responsibilities for administrators in a licensed child care center?

All administrators are to:

- (1) Create or update their individual profile in the OPR.
- (2) Create or update the center's organization dashboard in the OPR for each child care center in which they are employed as administrator.
- (3) Ensure that all employees and child care staff members complete the following in the OPR:
 - (a) Create or update their individual profile in the OPR.
 - (b) Create an employment record in the OPR for the center on or before their first day of employment, including date of hire.
 - (c) Update changes to positions or roles in the OPR within five calendar days of a change.
- (4) Update the center's organization dashboard in the OPR within five calendar days of a change for employees and child care staff members of the program, including:
 - (a) Scheduled days and hours.
 - (b) Group assignments, if applicable.
 - (c) The end date of employment.
- (5) Maintain records for each current employee and child care staff member as required in Chapter 5101:2-12 of the Administrative Code on file in the center, if not yet verified in the OPR.
 - (a) Make employment records available upon request by ODJFS for at least three years after each person's departure, if not verified in the OPR.
 - (b) Keep employment records confidential except when made available to ODJFS for the purpose of administering Chapter 5104. of the Revised Code and Chapter 5101:2-12 of the Administrative Code.

(D) What if an administrator is not on the premises?

- (1) A child care staff member ~~shall~~is to be designated as the person in charge and be on the premises.

- (2) The designated person in charge does not have to meet the educational requirements of an administrator nor be named on the license.
- (3) The designated person in charge ~~shall~~is to handle all emergencies and have access to all records required by Chapter 5101:2-12 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 10/29/2026

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5104.015, 5104.016
Rule Amplifies: 5104.035, 5104.015, 5104.09, 5104.039
Prior Effective Dates: 03/01/1981, 02/08/1982, 09/01/1986, 01/02/1992
(Emer.), 04/01/1992, 04/01/2003, 09/01/2005,
01/01/2007, 09/01/2007, 07/01/2010, 09/29/2011,
11/22/2015, 12/31/2016, 10/29/2017, 12/01/2019,
10/29/2021

Appendix
5101:2-12-07
Administrator Qualifications

A child care administrator is to have completed a high school education and at least one of the following items listed under education combined with experience where noted:

	Education	Experience
A	Associate, bachelor, master, or doctoral or other post- graduate degree in child development, early childhood education or related field approved by the Ohio department of job and family services (ODJFS). Must be from an accredited college, university or technical college.	No minimum experience.
B	A current license designated as appropriate for teaching in an associate teaching position in a preschool setting issued by the state board of education pursuant to section 3319.22 of the Ohio Revised Code.	No minimum experience.
C	A current infant and toddler or early childhood credential from a program accredited by the Montessori accreditation council for teacher education.	No minimum experience.
D	Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college.	No minimum experience.
E	A current “Ohio Administrator Credential” as approved by ODJFS.	No minimum experience.
F	A current Ohio's School-Age Administrator Professional Endorsement (if serving only school-age children).	No minimum experience.
G	Current designation under the career pathways level three.	No minimum experience.
H	Current designation under the career pathways level two.	Two years of experience working as a child care staff member in a licensed child care program.
I	Current designation under the career pathways level one, within one year, a current designation under the career pathways level two must be achieved.	Two years of experience working as a child care staff member in a licensed child care program.
J	At least four courses in child development or early childhood education from an accredited college, university, or technical college.	Two years of experience working as a child care staff member in a licensed child care program.
K	A current child development associate credential issued by the council for professional recognition.	Two years of experience working as a child care staff member in a licensed child care program.
L	No minimum education above the high school diploma or GED, but within 1 year of being named administrator, must have completed at least four courses in child development or early childhood education from an accredited college, university, or technical college or achieve and maintain a career pathways level two. Verification of high school education is to meet the requirements in appendix B to rule 5101:2-12-08 of the Administrative Code.	A person who has two years of experience working as a child care staff member in a licensed child day care program and was promoted from within that center.

Two years of training is equal to sixty semester or ninety quarter hours from an accredited college, university or technical college. Four courses is equal to twelve semester hours or eighteen quarter hours from an accredited college, university or technical college.

ENACTED
Appendix
5101:2-12-07

Appendix A to Rule 5101:2-12-07

Administrator Qualifications

A child care administrator is to have completed a high school education and at least one of the following educational options (A through L) combined with experience where noted:

	Education	Experience
A	Minimum of an associate-degree in child development, early childhood education or related field approved by the Ohio department of job and family services (ODJFS). Must be from an accredited college, university or technical college.	No minimum experience.
B	A minimum of a current prekindergarten associate license issued by the Ohio department of education (ODE).	No minimum experience.
C	A current infant and toddler or early childhood credential from a program accredited by the Montessori accreditation council for teacher education.	No minimum experience.
D	Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college.	No minimum experience.
E	A current Ohio administrator credential as approved by ODJFS.	No minimum experience.
F	A current Ohio school-age administrator professional endorsement (if serving only school-age children).	No minimum experience.
G	Current designation under a minimum of a career pathways level three.	No minimum experience.
H	Current designation under the career pathways level two.	Two years of experience working as a child care staff member in a licensed child care program.
I	Current designation under the career pathways level one, within one year, a current designation under the career pathways level two must be achieved.	Two years of experience working as a child care staff member in a licensed child care program.
J	At least four courses in child development or early childhood education from an accredited college, university, or technical college.	Two years of experience working as a child care staff member in a licensed child care program.
K	A current child development associate credential issued by the council for professional recognition.	Two years of experience working as a child care staff member in a licensed child care program.
L	No minimum education above the high school diploma or GED, but within 1 year of being named administrator, must have completed at least four courses in child development or early childhood education from an accredited college, university, or technical college or achieve and maintain a career pathways level two. Verification of high school education is to meet the requirements in appendix B to rule 5101:2-12-08 of the Administrative Code.	A person who has two years of experience working as a child care staff member in a licensed child day care program and was promoted from within that center.

Two years of training is equal to sixty semester or ninety quarter hours from an accredited college, university or technical college. Four courses is equal to twelve semester hours or eighteen quarter hours from an accredited college, university or technical college.

Written Information for Parents and Employees

Written information is to be developed and provided to parents and employees that include policies and procedures of the center containing, at a minimum, the following:

General Information

1. Center name, address, email address and telephone number.
2. Description of the center's program philosophy.
3. Days and hours of operation, scheduled closings and basic daily schedule.
4. Staff/child ratios and group size.
5. Opportunities for parent involvement in center activities.
6. Opportunities for parents to meet with teachers regarding their child.
7. Payment schedule, overtime charges and registration fees as applicable.
8. Programs are to have a policy in place describing supports for onsite breastfeeding or pumping for mothers who wish to do so (if the program serves infants or toddlers).

Center Policies and Procedures

1. Enrollment including required enrollment information.
2. Care of children without immunizations.
3. Attendance Policy:
 - Procedures for arrival and departure.
 - Program's absent day policy.
 - Releasing child to people other than the parent.
 - Releasing a child according to a custody agreement.
 - Follow up when a child scheduled to arrive from another program or activity does not arrive.
4. Supervision of children, including a separate supervision policy for school-age children, if applicable.
5. Child guidance.
6. Suspension and expulsion.
7. Ensure compliance with the Americans with Disabilities Act (ADA), including:
 - Administering medication to children with disabilities.
 - Administering care procedures to children with disabilities.
8. Outdoor play, including:
 - Limitations placed on outdoor play due to weather or safety issues.
 - Considerations may include but are not limited to temperature, humidity, wind chill, ozone levels, pollen count, lightning, rain or ice.
9. Food and dietary policy, including:
 - Information regarding meeting one-third of the child's recommended daily dietary allowance.
 - Policy regarding formula, breast milk, meals and snacks.
 - Policy on providing supplemental food.
10. Management of illness policy, including:
 - Isolation precautions.
 - Symptoms for discharge and return.
 - Notification of parent of ill child.
11. Summary of procedures taken in the event of an emergency, serious illness or injury.
12. Administration of medication and topical products policy, including:
 - Medical foods.

- Modified diets.
 - Whether school age children are permitted to carry their own medication and ointments.
13. Transportation policy for:
 - Field trips.
 - Routine walking trips, if applicable.
 - Emergencies, including if the center will provide child care services to children whose parents refuse to grant consent for transportation to the source of emergency treatment.
 14. Water activities/swimming.
 15. Infant care, if applicable, including:
 - Feeding.
 - Frequency of diaper checks.
 - Information about daily activities.
 16. Sleeping, napping and resting.
 17. Evening and overnight care, if applicable.
 18. Policy on hours of operation:
 - Closing due to weather.
 - School delays or closings.
 - Any other factors.
 19. Situations that may require disenrollment of a child, if applicable.
 20. Problem or issue resolution for parents or employees to follow when needing assistance in resolving problems related to the child care center.
 21. Formal screenings and assessments on enrolled children and if the program reports child level data to ODJFS pursuant to Chapter 5101:2-17 of the Administrative Code.

Center Parent Information

The center is licensed to operate legally by the Ohio Department of Job and Family Services (ODJFS). This license is posted in a noticeable place for review.

A toll-free telephone number is listed on the center's license and may be used to report a suspected violation of the licensing law or administrative rules. The licensing rules governing child care are available for review at the center.

The administrator and each employee of the center is required, under Section 2151.421 of the Ohio Revised Code, to report their suspicions of child abuse or child neglect to the local public children's services agency.

Any parent of a child enrolled in the center shall be permitted unlimited access to the center during all hours of operation for the purpose of contacting their children, evaluating the care provided by the center or evaluating the premises. Upon entering the premises, the parent, or guardian shall notify the Administrator of his/her presence.

The administrator's hours of availability to meet with parents and child/staff ratios are posted in a noticeable place in the center for review.

The licensing record, including licensing inspection reports, complaint investigation reports, and evaluation forms from the building and fire departments, is available for review upon written request from the ODJFS. Inspections are also online at <http://childcaresearch.ohio.gov/>. Parents may search for a specific program and sign up to be notified when the program's latest inspection is posted online.

It is unlawful for the center to discriminate in the enrollment of children upon the basis of race, color, religion, sex, national origin or disability in violation of the Americans with Disabilities Act of 1990, 104 Stat. 32, 42 U.S.C. 12101 et seq. To file a discrimination complaint, write or call Health and Human Services (HHS) or ODJFS. HHS and ODJFS are equal opportunity providers and employers.

Write or Call:**HHS**

Region V, Office of Civil Rights

233 N. Michigan Ave, Ste. 240

Chicago, IL 60601

(312) 886-2359 (voice)

(312) 353-5693 (TDD)

(312) 886-1807 (fax)

Write or Call:**ODJFS**

Bureau of Civil Rights

30 E. Broad St., 37th Floor

Columbus, OH 43215-3414

(614) 644-2703 (voice)

1-866-277-6353 (toll free)

(614) 752-6381 (fax)

1-866-221-6700 (TTY) or (614) 995-9961

For more information about child care licensing requirements as well as how to apply for child care assistance, Medicaid health screenings and early intervention services for your child, please visit <http://jfs.ohio.gov/cdc/families.stm>.