

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-13-08

**Rule Type:** Rescission

**Rule Title/Tagline:** Employees, child care staff members and substitute responsibilities and qualifications for a licensed family child care provider.

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

**Division:** Division of Social Services

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#### I. Rule Summary

1. Is this a five year rule review? Yes
  - A. What is the rule's five year review date? 7/29/2021
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? 5104.018, 5104.017
5. What statute(s) does the rule implement or amplify? 5104.017, 5104.018
6. What are the reasons for proposing the rule?

This rule is being proposed for rescission to be replaced by a new rule of the same number and similar content.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule outlines the qualifications and responsibilities for all staff members and employees.

8. Does the rule incorporate material by reference? Yes
9. 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 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 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 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).

10. 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

11. 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.

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Not Applicable.

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

There are no anticipated costs of compliance as a result of this rescinded rule.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
15. 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**

16. Was this rule filed with the Common Sense Initiative Office? Yes
17. Does this rule have an adverse impact on business? Yes

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

Type A family child care homes must be licensed by the Ohio Department of Job and Family Services because they serve seven or more children. Type B family child care homes must be licensed by the Ohio Department of Job and Family Services if they want to serve children who are publicly funded or they can voluntarily be regulated.

- 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? Yes

Failure to comply can result in revocation of a family child care Type A or Type B license.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

This rule requires child care staff members and employees to maintain documentation in writing. To comply with rule requirements, providers are responsible for correcting non-compliances, if received, through the Ohio Child Licensing and Quality System.

- 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 Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))**

**18. 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? 0**

**B. How many existing regulatory restrictions do you propose removing? 16**

5101:2-13-08 (A)(1) An employee shall have on file a completed medical statement that meets the requirements of appendix B to rule 5101:2-13-02 of the Administrative Code.

5101:2-13-08 (A)(2) The completed medical statement shall be on file on or before the employee's first day of employment.

5101:2-13-08 (B)(1) A child care staff member: Shall meet all of the requirements detailed in appendix A to this rule.

5101:2-13-08 (B)(2) A child care staff member: Shall meet all training requirements prescribed in rule 5101:2-13-10 of the Administrative Code.

5101:2-13-08 (B)(3) A child care staff member: Shall complete the staff orientation training as prescribed by the Ohio department of job and family services (ODJFS) within thirty days of starting employment unless the child care staff member has documentation of completion of the training after December 31, 2016.

5101:2-13-08 (B)(3)(b) Completion of the training shall be documented with verification from the Ohio professional registry.

5101:2-13-08 (B)(4) May be used to meet group size and supervision requirements but shall not be left alone with the children until the orientation training is completed.

5101:2-13-08(C)(1) The licensed family child care provider shall maintain documentation for each current staff member on file at the home.

5101:2-13-08(C)(2) Employment records shall be made available upon request by the county agency or by the ODJFS for at least three years after each staff member's departure.

5101:2-13-08(C)(3) Employment records shall include days and hours worked, duties and group assignments, if applicable.

5101:2-13-08(D) The licensed family child care provider shall review all family child care policies, procedures and licensing rules with each child care staff member.

5101:2-13-08(E) No employer shall discharge, demote, suspend or threaten to discharge, demote, suspend or in any manner discriminate against any employee based solely on the employee taking any of the following actions:

5101:2-13-08(F) If the family child care provider chooses to utilize a substitute, the substitute shall:

5101:2-13-08(G)(1) Substitute child care shall occur only in the family child care home to which the children are authorized.

5101:2-13-08(G)(2) The licensed family child care provider shall ensure that the substitute and child care staff members have the following information at the time child care services are provided:

5101:2-13-08 (D) What shall be reviewed with a child care staff member at the time of employment?