

**Department of
Developmental Disabilities**

Mike DeWine, Governor
Jeff Davis, Director

NOTICE OF PUBLIC HEARING

DATE: April 26, 2019

TIME: 10:00 a.m.

PLACE: Lobby Hearing Room
Rhodes State Office Tower
30 East Broad Street
Columbus, Ohio 43215

The Ohio Department of Developmental Disabilities hereby gives notice of its intent to rescind and adopt the following rules of the Administrative Code on a permanent basis on or about June 7, 2019, and to conduct a public hearing thereon.

The Department is rescinding rule 5123:2-2-02 (Background Investigations for Employment) and adopting a new replacement rule of the same title numbered 5123-2-02. The rule establishes standards for conducting background investigations on persons employed or seeking employment in Ohio's service delivery system for individuals with developmental disabilities. New rule 5123-2-02 reflects revisions based on the comprehensive five-year review, including:

- Adding a definition of the Ohio Attorney General's "Retained Applicant Fingerprint Database" (also known as "Rapback").
- Clarifying that background investigations must be conducted prior to employing an applicant.

- Adding a requirement for a responsible entity to check the Ohio Department of Medicaid Provider Exclusion and Suspension List.
- Correcting the website address for the database of Incarcerated and Supervised Offenders.
- Removing provisions regarding implementation of rule 5123:2-2-02 when the rule went into effect in 2013.
- Adding a requirement for a responsible entity to enroll employees in direct services positions in Rapback, which had not yet been established when rule 5123:2-2-02 went into effect in 2013. (Enrolling employees in Rapback is more effective and less costly than requesting that the Bureau of Criminal Identification and Investigation conduct a criminal records check on employees every five years.)
- Clarifying that a responsible entity may not employ a person who has been found eligible for intervention in lieu of conviction for a disqualifying offense.
- Clarifying the exclusion period for a person with multiple disqualifying offenses.

The Department is rescinding rule 5123:2-2-03 (Quality Assurance) and adopting a new replacement rule of the same title numbered 5123-2-03. The rule codifies the Department's commitment to, and processes employed to achieve, quality outcomes for Ohioans with developmental disabilities. New rule 5123-2-03 reflects revisions based on the comprehensive five-year review, including:

- Correcting references to the Administrative Code.
- Adding references to several rules (i.e., 5123:2-2-05, 5123:2-2-06, 5123:2-2-07, 5123:2-9-02, and 5123:2-9-11) suggested by stakeholders.

The Department is rescinding rule 5123:2-2-04 (Compliance Reviews of Certified Providers) and adopting a new replacement rule of the same title numbered 5123-2-04. The rule governs compliance reviews conducted by the Department and county boards of developmental disabilities to ensure compliance by certified providers with applicable requirements. New rule 5123-2-04 reflects revisions based on the comprehensive five-year review, including:

- Correcting references to the Administrative Code and the Revised Code.
- Correcting references to the Ohio Department of Medicaid.
- Adding qualifications for persons who conduct compliance reviews.
- Clarifying that persons who conduct compliance reviews must successfully complete training and be authorized by the Department to conduct compliance reviews.

At this public hearing, the Department will accept verbal and/or written testimony regarding the proposed rule actions. Persons unable to attend the public hearing may submit written comments regarding the proposed rule actions. Any written comments received on or before the public hearing date will be treated as testimony and made available for public review. Submittal of written comments may be made to Becky Phillips, Administrative Rules Coordinator, by email to becky.phillips@dodd.ohio.gov or by U.S. mail to 30 East Broad Street, 12th Floor, Columbus, Ohio 43215-3414.

The rules are available for review at the Register of Ohio website (<http://registerofohio.state.oh.us>) and at the Department's website (<http://dodd.ohio.gov/RulesLaws/Pages/Rules-Under-Development.aspx>). The rules are also available for review at each county board of developmental disabilities.