



Hearing Summary Report

Hearing Date: 05/03/2024

Today's Date: 05/31/2024

Rule Numbers: 5123-10-01, 5123-10-02, 5123-10-03, 5123-10-04

If no comments at hearing, please check the box. ☐

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

Gabriella Celeste, Timothy Johnson, and Fred Strahorn
Leadership Team
Ohio Lead Free Kids Coalition
(5123-10-02)

Troy Hunter
Director of Research, Evaluation, and Performance
Groundwork Ohio
(5123-10-02 and 5123-10-03)

Sharon Madger
(5123-10-02 and 5123-10-04)

Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

5123-10-02:

The Ohio Lead Free Kids Coalition requested that the Department adjust the Early Intervention program automatic eligibility criterion regarding elevated blood lead level from 5 micrograms per deciliter to 3.5 micrograms per deciliter.

Groundwork Ohio expressed support for:

- Expanding the Early Intervention program automatic eligibility criteria to include newborns born before 28 weeks without an additional diagnosis.
- Updating the list of physical and mental conditions with a high probability of resulting in a developmental delay.

Groundwork Ohio suggested that the expansion of eligibility established by the new rule requires an increased investment in the Early Intervention program to sustain the influx of children who would become eligible for services.

Sharon Madger asked why the Department is removing "her" and "him" and replacing "shall" with "may." She also asked why the definition of "initial evaluation" is being removed. She asserted that the definition of "intensity" and a parent's consent for disclosure of information in paragraphs (L)(1)(b) and (L)(2)(c) should not be removed. She also asserted that "student identifier" in paragraph (L)(1)(a) should be removed.

5123-10-03:

Groundwork Ohio expressed support for increasing the number of units of Early Intervention services available to parents at no charge.

5123-10-04:

Sharon Madger asked why the Department is removing "her" and "him" and replacing "shall" with "may." She also asserted that paragraphs (B)(12) and (B)(13) should remain as they are.

Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

5123-10-02:

The Department is not adjusting the Early Intervention program automatic eligibility criterion regarding elevated blood lead level. Consistent with the Individuals with Disabilities Education Act (IDEA), Ohio's Early Intervention program is designed to support parents and other family members of children with developmental delays and disabilities. Ohio's threshold for eligibility for Early Intervention is 1.5 standard deviations below the norm in development in one or more areas of childhood development (birth through two years). Children may also be determined eligible through a diagnosis found in Appendix C to rule 5123-10-02. These diagnoses must, under IDEA, have a high probability of resulting in a developmental delay (i.e., a delay with an equivalence to 1.5 or more standard deviations below the norm in early development) [34 CFR 303.21(a)(2)].

The Department is not aware of evidence suggesting that children experiencing lead exposure at the 3.5 to 5 micrograms per deciliter level have a high probability of experiencing a delay of 1.5 or more standard deviations from the norm. Children with blood lead levels below 5 micrograms per deciliter are best served through developmental screening and

referral to Early Intervention as needed, which is consistent with Centers for Disease Control and Prevention guidelines.

There are multiple avenues in Ohio for developmental screening and referral to Early Intervention. Pediatricians regularly complete developmental screening and are primary referral sources. Free online developmental screening is also available to any child in Ohio under the age of three through Help Me Grow central intake and referral. Most state Early Intervention programs do not include elevated blood lead levels at any level as an eligibility reason for Early Intervention. Of those that do, only a few have set eligibility at 5 micrograms per deciliter like Ohio; most states set eligibility at 10 micrograms (or greater) per deciliter.

5123-10-02 and 5123-10-04:

The Department is aligning the rules with newer rules, legislative initiatives, and the Ohio Legislative Service Commission Rule Drafting Manual. In rule 5123-10-02, the definitions of "initial evaluation" and "intensity" are being removed because the terms are no longer used. The amendments being made to paragraphs (B)(12) and (B)(13) of rule 5123-10-04 are non-substantive and do not change the meaning.