

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: OFA: Center FYR 5101:2-12-04 KM 7/15

Rule Number(s): 5101:2-12-04, 5101:2-12-11, 5101:2-12-14, 5101:2-12-15.1, 5101:2-12-18,  
5101:2-12-18.1, 5101:2-12-18.2, 5101:2-12-19, 5101:2-12-26, 5101:2-12-30, 5101:2-12-33,  
5101:2-12-42

Date: \_\_\_\_\_

**Rule Type:**

☐ New

☒ 5-Year Review

☐ Amended

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

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**1. Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

5101:2-12-04 – "Initial application and issuance of a provisional license for child care centers" sets forth the required process for the initial application and issuance of a provisional license for a licensed child care center. This rule is being amended to add a reference to the statement of nonconviction and criminal records check rule and to make the requirements more clear.

5101:2-12-11 – "Fire department approval for licensed child care centers" sets forth the required process for obtaining a fire department approval for a licensed child care center. This rule is being amended to remove language regarding failure to comply.

5101:2-12-14 – "Outdoor play requirements for licensed child care centers" sets forth the requirements for the frequency of outdoor activities and equipment requirements in a licensed child care center. This rule is being amended to update the website address where the "Public Playground Safety Handbook" can be found. Minor punctuation and grammatical changes were also made to this rule.

5101:2-12-15.1 – "Handwashing and standard precautions for licensed child care centers" sets forth the requirements for handwashing of staff and children as well as standard practices employees must follow in a licensed child care center. This rule is being amended for minor punctuation changes.

5101:2-12-18 – "Transportation and field trip safety for licensed child care centers" sets forth the policy requirements for transportation and the field trip requirements for licensed child care centers. This rule is being amended to provide clarity and to make minor grammatical changes.

5101:2-12-18.1 – "Transportation/vehicle requirements for licensed child care centers" sets forth the requirements for vehicles used by or for a licensed child care center, including inspections and types of vehicles permitted. This rule is being amended for minor punctuation changes.

5101:2-12-18.2 – "Transportation/driver requirements for licensed child care centers" sets forth the requirements for drivers who transport children for a licensed child care center. This rule is being amended for minor punctuation changes and to remove language that the administrator is responsible for assuring that the copy of the driver's license on file is kept current.

5101:2-12-19 – "Requirements for children who rest, nap, or sleep and use of cots in a licensed child care center" sets forth the requirements for mats and cots used in licensed child care centers. This rule is being amended for minor punctuation changes and to provide clarity.

5101:2-12-26 – "Statement of nonconviction and criminal records checks for licensed child care centers" sets forth the back ground check requirements and the signing of a nonconviction statement for owners, administrators and employees of a licensed child care center. This rule is being amended to remove referenced sections of the Ohio Revised Code, to replace "BCII" with "BCI" and to update the criminal records check requirement to every five years.

5101:2-12-30 – "Written information, policies and procedures to be provided to parents/guardians of children in licensed child care centers" sets forth the requirements for licensed child care centers to develop policies and procedures for parents/guardians. This rule is being amended for minor punctuation changes and to include language that the child care center shall provide the tax identification number to parent or guardian even if the children are no longer enrolled.

5101:2-12-33 – "Management of illness in licensed child care centers" sets forth the requirements for licensed child care centers to manage and prevent illnesses in licensed child care centers; including communicable diseases. This rule is being amended for minor punctuation changes.

5101:2-12-42 – "Cribs in licensed child care centers" sets forth the requirements for cribs used in licensed child care centers. This rule is being amended to remove the "full size" crib requirement and to remove all references to "porta" cribs. Additional language has been added to require a "certificate of compliance" be on file for any crib manufactured before June 28, 2011.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

5101:2-12-04 – 5104.015, 5104.03

5101:2-12-11 – 5104.015, 5104.051, 5104.05

5101:2-12-14 – 5104.015

5101:2-12-15.1 – 5104.015

5101:2-12-18 – 5104.015

5101:2-12-18.1 – 5104.015

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5101:2-12-18.2 – 5104.015

5101:2-12-19 – 5104.015

5101:2-12-26 – 5104.015, 5104.09

5101:2-12-30 – 5104.015,

5101:2-12-33 – 5104.015

5101:2-12-42 – 5104.015

- 3. 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.**

No.

- 4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

These regulations do not exceed federal requirements.

- 5. 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)?**

These rules, promulgated pursuant to the requirements of the Ohio Revised Code, establish regulations for minimum health and safety standards for licensed child care environments, staffing, child records, and administrative policies and procedures.

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

The success of these regulations is determined during licensing inspections, through the monitoring of incident reports submitted by regulated providers, through materials submitted to address noncompliance issues; and through any complaints received by ODJFS. Stakeholders also provide continuous input into the regulation and the effort to comply with the rule.

### **Development of the Regulation**

- 7. 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.*

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Rules contained in this package were developed to meet Ohio Revised Code requirements. Stakeholders involved include the policy committee of the Child Care Advisory Council.

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

Stakeholder comments will be considered during and immediately following the ODJFS Clearance process and public comment period.

**9. 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.

**10. 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?**

Alternatives were not considered as the rules were developed to meet the Ohio Revised Code mandates.

**11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

No. Rules were developed to implement state mandates under Ohio Revised Code 5104. intended to increase the health, safety, and general wellbeing of children in child care.

**12. 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 prior to the Clearance period to ensure there is no duplication of our agency or other agency rules. These rules are promulgated pursuant to the Ohio Revised Code.

**13. 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 child care centers. ODJFS help desk staff provides support and assistance to child care centers and families regarding the rules. Formal notification of the rules is provided to child care providers, families and others by use of an emanual for child care which is located at <http://emanuals.odjfs.state.oh.us/emanuals/>. Email updates from ODJFS can be received by

signing up at <http://www.odjfs.state.oh.us/subscribe/> as well as an RSS feed at <http://www.odjfs.state.oh.us/ccupates/>.

### **Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community;**

There are approximately 4,300 licensed child care centers throughout Ohio.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

No new costs or requirements are being implemented with these rules. The following rules contain the existing requirements and accompanying estimated costs to licensed child care centers:

5101:2-12-04 – Provisional license fee is a charge of \$500.00, amendments to a license cost \$250.00.

5101:2-12-11 – Fire inspection(s) is required, local fire departments or the state fire marshal provide these at costs ranging from \$0.00 up to \$100.00.

5101:2-12-14 – Licensed child care centers are required to maintain safe outdoor play space and equipment. Purchasing and maintaining equipment will initiate costs as well as maintaining soft fall surfaces if the center purchases loose material.

5101:2-12-15.1 – Licensed child care centers are required to have liquid soap, maintain individually assigned towels or disposable towels and have disposable gloves, cleaning, sanitizing and disinfectant products.

5101:2-12-18, 5101:2-18.1, and 5101:2-12-18.2 - Licensed child care centers that provide transportation must follow standard vehicle safety requirements including maintenance of the vehicles. An inspection by an Automotive Service Excellence (ASE) mechanic is offered at a cost ranging from \$50.00 up to \$120.00 depending on the type of vehicle, some vehicles are exempt from this requirement. Requirements for the type of vehicles used is not being changed.

5101:2-12-19 – Licensed child care centers are required to obtain and maintain cots or mats for children who sleep or nap in their programs, costs range from \$12.00 to \$150.00 depending on the type of cot or mat is purchased.

5101:2-12-26 – Licensed child care centers are required to submit fingerprints for staff to undergo a BCI and FBI check. The average costs for BCI is \$22.00 and the average cost for a FBI check is \$24.00, cost will vary depending on the number of staff a program employs.

5101:2-12-30 – Time involved in developing policies and procedures may vary depending on the size of the program and what services the licensed child care center offers (for example: transportation, meals, and evening or overnight care).

5101:2-12-33 – A staff person must be trained on communicable disease, trainings can be offered free or at a charge ranging from \$25.00 to 65.00. Centers are required to post a communicable disease chart which is free from ODJFS.

5101:2-12-42 - Licensed child care centers are required to obtain and maintain cribs for infants who sleep or nap in their programs. Cribs range in price ranging from \$200.00 and up depending on the type of crib.

**c. Quantify the expected adverse impact from the regulation.**

*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.*

Currently licensed child care centers should already have the standard items required for initial licensure. The actual cost to each center cannot be estimated because costs will vary depending on the center's business model and which services they provide.

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

The regulatory intent justifies the financial impact child care centers may incur because these licensing standards are mandated. The Ohio Revised Code requires licensed child care centers to be licensed and follow the ORC.

**Regulatory Flexibility**

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

No, Licensing standards for child care centers are mandated by the Ohio Revised Code.

**17. 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.

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

ODJFS enforces the rules set forth by the Ohio Revised Code and the Ohio Administrative Code. ODJFS provides technical assistance through licensing specials, video conferences, trainings, emails, eblasts, RSS feeds, eManual, help desks and through the Ohio Child Care Resource and Referral Association.

ODJFS provides the following:

Child Care Policy Helpdesk

[CHILDCAREPOLICY@jfs.ohio.gov](mailto:CHILDCAREPOLICY@jfs.ohio.gov)

1-877-302-2347

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

Email updates from ODJFS can be reviewed by signing up at:

<http://www.odjfs.state.oh.us/subscribe/>

RSS feeds sign up at: <http://www.odjfs.state.oh.us/ccupdates>