

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Department of Job and Family Services

Regulation/Package Title: Licensed Child Care Centers - Chapter 5101:2-12 (rescinded)

Rule Number(s): 5101:2-12-02, 5101:2-12-03, 5101:2-12-04, 5101:2-12-04.1, 5101:2-12-05,  
5101:2-12-07, 5101:2-12-08, 5101:2-12-09, 5101:2-12-09.1, 5101:2-12-10, 5101:2-12-11,  
5101:2-12-12, 5101:2-12-13, 5101:2-12-14, 5101:2-12-15, 5101:2-12-15.1, 5101:2-12-15.2,  
5101:2-12-15.3, 5101:2-12-15.4, 5101:2-12-16, 5101:2-12-17, 5101:2-12-18, 5101:2-12-18.1,  
5101:2-12-18.2, 5101:2-12-19, 5101:2-12-20, 5101:2-12-21, 5101:2-12-22, 5101:2-12-23,  
5101:2-12-24, 5101:2-12-25, 5101:2-12-26, 5101:2-12-27, 5101:2-12-28, 5101:2-12-29,  
5101:2-12-30, 5101:2-12-31, 5101:2-12-33, 5101:2-12-34, 5101:2-12-35, 5101:2-12-36,  
5101:2-12-37, 5101:2-12-38, 5101:2-12-39, 5101:2-12-40, 5101:2-12-41, 5101:2-12-42

Date: July 25, 2016

**Rule Type:**

<input type="checkbox"/> New	<input type="checkbox"/> 5-Year Review
<input type="checkbox"/> Amended	<input checked="" type="checkbox"/> Rescinded

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**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.**

All rules in this packet are being rescinded and redrafted as new rules in order to re-align, re-number and re-title them. This process reflects a thorough review and restructuring of all child care licensing rules to ensure ODJFS is mandating *only* essential health and safety requirements and excluding any requirements that could impede the economic viability of small business in Ohio. The rescinding of these rules also reflects the end of duplicative rule standards for child care centers.

The rescinding of these rules does not create extra costs; reporting activity; or cause any sanctions of law for non-compliance as a result of their rescission. In their totality, these rules do not have adverse impact on small businesses.

### **Regulatory Intent**

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

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

- |                |   |
|----------------|---|
| 5101:2-12-02   | Types of licensed child care centers  |
| 5101:2-12-03   | License capacity for licensed child care centers  |
| 5101:2-12-04   | Initial application and issuance of a provisional license for child care centers  |
| 5101:2-12-04.1 | Procedures for child care centers operating under a provisional license   |
| 5101:2-12-05   | License amendments for licensed child care centers  |
| 5101:2-12-07   | Inspection of licensed child care centers with a regular license and the investigation of unlicensed child care centers |
| 5101:2-12-08   | Complaint investigations for licensed and unlicensed child care centers   |
| 5101:2-12-09   | Denial or revocation of a child care center application or license  |
| 5101:2-12-09.1 | Suspension of a child care center license   |
| 5101:2-12-10   | Training and professional development requirements for a licensed child care center                                     |

- 5101:2-12-11 Fire department approval for licensed child care centers
- 5101:2-12-12 Food service licensure for licensed child care centers
- 5101:2-12-13 Indoor floor space requirements in licensed child care centers
- 5101:2-12-14 Outdoor play requirements for licensed child care centers
- 5101:2-12-15 Safe and sanitary equipment and environment in licensed child care centers
- 5101:2-12-15.1 Handwashing and standard precautions for licensed child care centers
- 5101:2-12-15.2 Diapering and toilet training for licensed child care centers
- 5101:2-12-15.3 Smoke-free environment for licensed child care centers
- 5101:2-12-15.4 Toothbrushing in licensed child care centers
- 5101:2-12-16 Requirements for programming and equipment in licensed child care centers
- 5101:2-12-17 Swimming and water safety requirements in licensed child care centers
- 5101:2-12-18 Transportation and field trip safety procedural requirements for licensed child care centers
- 5101:2-12-18.1 Transportation/vehicle requirements for licensed child care centers
- 5101:2-12-18.2 Transportation/driver requirements for licensed child care centers
- 5101:2-12-19 Requirements for children who rest, nap or sleep and use of cots in licensed child care centers
- 5101:2-12-20 Supervision, staff/child ratios and grouping for licensed child care centers
- 5101:2-12-21 Care and nurturing of children for licensed child care centers
- 5101:2-12-22 Child guidance and management for licensed child care centers
- 5101:2-12-23 Evening and overnight care for licensed child care centers
- 5101:2-12-24 Administrator responsibilities and qualifications for licensed child care centers
- 5101:2-12-25 Employee and child care staff member requirements for licensed child care centers
- 5101:2-12-26 Statement of nonconviction and criminal records checks for licensed child care centers

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- 5101:2-12-27 Training in first aid, CPR, management of communicable disease and child abuse prevention for staff in licensed child care centers
- 5101:2-12-28 In-service training for licensed child care centers
- 5101:2-12-30 Written information, policies and procedures to be provided to parents/guardians of children in licensed child care centers
- 5101:2-12-31 Administration of medication in licensed child care centers
- 5101:2-12-33 Management of illness of licensed child care centers
- 5101:2-12-34 Medical, dental, and general emergency plan for licensed child care centers
- 5101:2-12-35 Incident/injury report for licensed child care centers
- 5101:2-12-36 First aid supplies/procedures for licensed child care centers
- 5101:2-12-37 Children's medical and enrollment records for licensed child care centers
- 5101:2-12-38 Care of children with health conditions in licensed child care centers
- 5101:2-12-39 Requirements for meals and snacks in licensed child care centers
- 5101:2-12-40 Daily program for infants in licensed child care centers
- 5101:2-12-41 Infant feeding requirements in licensed child care centers
- 5101:2-12-42 Cribs in licensed child care centers

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

ORC 5104.013

ORC 5104.015

ORC 5104.016

ORC 5104.042

**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.**

The 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 and are being replaced by new rules.

- 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 and through materials submitted to address noncompliances. Stakeholders also provide continuous input into the regulation and their ability to comply with the rules.

#### **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.*

Stakeholders involved in developing these rules include:

Child Care Advisory Council – Policy Subcommittee

Ohio Job and Family Services Director's Association – Child Care Committee

Ohio Department of Health – Pediatric Obesity Collaborative Improvement and Innovation Network (CoIIN)

Ohio Department of Education

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

Stakeholder comments were incorporated where appropriate during the drafting and the ODJFS clearance process. On December 2, 2015, the ODJFS made the proposed family child care licensing rules and forms available for public comment and received 84 comments. Based upon the number of comments received and revisions to the proposed rules and forms, the ODJFS made the rules available for a second public comment period on April 14, 2016. The ODJFS received 14 comments from the second clearance. New input will continue to be

carefully considered during and immediately following the public hearing comment period. New input will continue to be carefully considered during and immediately following the public hearing 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?**

These rules were promulgated to comply with the statutory requirements of ORC 5101.015.

**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 well-being 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 process to ensure there is no duplication of our agency or other agency rules.

**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 centers. ODJFS help desk staff provides support and assistance to licensed child care providers and families regarding the provisions of 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/ccupdates>.

**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;**

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There are approximately 4,157 licensed child care centers throughout Ohio.

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

There are no adverse impact with the rescission of these rules.

- 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.*

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

Not applicable.

### **Regulatory Flexibility**

- 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 provides technical assistance through technical assistance staff, technical assistance documents, video conferences, 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)**

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1-877-302-2347 option 4

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

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

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