

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Department of Job and Family Services

Regulation/Package Title: Chapter 5101:2-13 and Chapter 5101:2-14 (rescinded rules)

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

Date: July 25, 2016

**Rule Type:**

- ☐ New  
☐ Amended

- ☐ 5-Year Review  
☒ Rescinded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All rules in this packet are being rescinded and redrafted as new rules in order to re-align, re-number and re-title them.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 home settings.

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.*

- |                |  |
|----------------|--|
| 5101:13-02     | Types of licensed type A homes   |
| 5101:2-13-03   | License capacity for licensed type A homes   |
| 5101:2-13-04   | Application and issuance of a provisional license for type A homes                                   |
| 5101:2-13-04.1 | Procedures for a type A home operating under a provisional license                                   |
| 5101:2-13-05   | License amendments for licensed type A homes   |
| 5101:23-13-07  | Inspection of licensed type A homes with a regular license and the investigation of unlicensed homes |
| 5101:2-13-08   | Complaint investigations for licensed and unlicensed type A homes                                    |
| 5101:2-13-09   | Denial or revocation of a type A home application or license   |
| 5101:2-13-09.1 | Suspension of a type A home license  |
| 5101:2-13-10   | Building department inspection for licensed type A homes   |
| 5101:2-13-11   | Fire department approval for licensed type A homes   |

- 5101:2-13-12 Meal preparation and service and water sanitation for licensed type A homes
- 5101:2-13-13 Indoor floor space requirements in licensed type A homes
- 5101:2-13-14 Outdoor play requirements in licensed type A homes
- 5101:2-13-15 Safe and sanitary equipment and environment in licensed type A homes
- 5101:2-13-15.1 Handwashing and standard precautions in licensed type A homes
- 5101:2-13-15.2 Diapering and toilet training in licensed type A homes
- 5101:2-13-15.3 Smoke-free environment for licensed type A homes
- 5101:2-13-15.4 Toothbrushing in licensed type A homes
- 5101:2-13-16 Requirements for programming and equipment in licensed type A homes
- 5101:2-13-17 Swimming and water safety requirements in licensed type A homes
- 5101:2-13-18 Transportation and field trip safety procedural requirements for licensed type A homes
- 5101:2-13-18.1 Transportation/vehicle requirements for licensed type A homes
- 5101:2-13-18.2 Transportation/driver requirements for licensed type A homes
- 5101:2-13-19 Sleeping, napping, resting and overnight care requirements for type A homes
- 5101:2-13-20 Supervision and staff/child ratios in licensed type A homes
- 5101:2-13-21 Care and nurturing of children for type A homes
- 5101:2-13-22 Child guidance and management for licensed type A homes
- 5101:2-13-23 Evening and overnight care for licensed type A homes
- 5101:2-13-24 Administrator responsibilities and qualifications for type A homes
- 5101:2-13-25 Employee and child care staff member requirements for licensed type A homes
- 5101:2-13-26 Statement of nonconviction and criminal records check for licensed type A homes
- 5101:2-13-27 Training in first aid, CPR, management of communicable disease and child abuse prevention

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- 5101:2-13-28 Inservice training for licensed type A homes
- 5101:2-13-30 Policies/procedures and insurance requirements for licensed type A homes
- 5101:2-13-31 Administration of medication requirements for licensed type A homes
- 5101:2-13-33 Management of illness in licensed type A homes
- 5101:2-13-34 Medical, dental, and general emergency plan for licensed type A homes
- 5101:2-13-35 Incident/injury report for licensed type A homes
- 5101:2-13-36 First aid supplies/procedures for licensed type A homes
- 5101:2-13-37 Children's medical and enrollment records for licensed type A homes
- 5101:2-13-38 Care of children with health conditions in licensed type A homes
- 5101:2-13-39 Requirements for meals and snacks in type A homes
- 5101:2-13-40 Daily program for infants in licensed type A homes
- 5101:2-13-41 Infant feeding requirements in licensed type A homes
- 5101:2-13-42 Cribs in licensed type A homes
- 5101:2-14-08 Training requirements for a licensed type B home provider
- 5101:2-14-09 Emergency/substitute caregiver and employees for a licensed type B home provider
- 5101:2-14-10 Fire safety requirements for a licensed type B home provider
- 5101:2-14-11 Indoor and outdoor space requirements for a licensed type B home provider
- 5101:2-14-12 Safe equipment and environment for a licensed type B home provider
- 5101:2-14-13 Sanitary equipment and environment for a licensed type B home provider
- 5101:2-14-14 Transportation and field trip safety for a licensed type B home provider
- 5101:2-14-15 Child records requirements for a licensed type B home provider
- 5101:2-14-16 Medical, dental, first aid and communicable disease procedures for a licensed type B home provider

- 5101:2-14-17 Programming and materials for a licensed type B home provider
- 5101:2-14-18 Group size for a licensed type B home provider
- 5101:2-14-19 Sleeping and napping requirements for a licensed type B home provider
- 5101:2-14-20 Supervision of children and child guidance for a licensed type B home provider.
- 5101:2-14-21 Meal preparation/nutritional requirements for a licensed type B home provider
- 5101:2-14-22 Infant care and diaper care for a licensed type B home provider
- 5101:2-14-23 Swimming and water safety requirements for a licensed type B home provider
- 5101:2-14-24 Evening and overnight care requirements for a licensed type B home provider

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

ORC 5104.013

ORC 5104.017

ORC 5104.018

ORC 5104.019

ORC 5104.025

ORC 5104.041

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)

Family Child Care Ad hoc Workgroup – comprised of Type A Home Providers, Type B Home Providers, County Department of Job and Family Services and AFSCME Local Council 8 (Note: AFSCME Local Council 8 represented the family child care providers while the ad hoc workgroup was convened in spring 2013)

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 37 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 10 comments from the second clearance. 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 5101.017 and 5101.018.

**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.**

County agency licensing specialists utilize a software system to inspect licensed family child care homes and providers. 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 upwards of 3,516 licensed family child care providers in Ohio.

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

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

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