

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Job and Family Services

Regulation/Package Title: Child Care Center Rule Amendments

Rule Number(s): 5101:2-12-07, 5101:2-12-08, 5101:2-12-10, 5101:2-12-12, 5101:2-12-13,
5101:2-12-14, 5101:2-12-16, 5101:2-12-18, 5101:2-12-23, 5101:2-12-25

Date: July 11, 2017

Rule Type:

☐ New

☒ Amended

☐ 5-Year Review

☐ Rescinded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.

The Ohio Department of Job and Family Services is amending child care licensing rules as a result of feedback received from the Ohio Alliance of Early Learning Advocates in November 2016 and from stakeholder meetings held on January 31, 2017 and March 17, 2017. These meetings were convened at the request of the Office of Common Sense Initiative to gather

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stakeholder feedback after the December 31, 2016 effective date of the rewritten child care licensing rules.

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.

These rules are not being filed to meet the five-year review. The amendments to these rules do not pose an adverse impact on businesses.

5101:2-12-07 "Administrator responsibilities, requirements and qualifications for a licensed child care center" outlines the education and responsibilities to become an administrator in a licensed child care center. This rule is being amended to clarify when an administrator for programs that operate overnight/weekends has to be onsite. Appendix B to this rule is being amended to clarify the breastfeeding policy requirements and to specify that the requirement is only for programs that serve infants or toddlers.

5101:2-12-08 "Employee and child care staff member requirements in a licensed child care center" outlines the qualifications for employees and child care staff members in a licensed child care center. This rule is being amended to clarify that the child care staff orientation does not have to be retaken if the staff changes programs or owners.

5101:2-12-10 "Training and professional development requirements for a licensed child care center" outlines the initial and on-going training and professional development requirements for child care center staff. This rule is being amended to remove paragraph (A)(3) that required administrators, child care staff members, including substitutes, to complete the one-hour child abuse and neglect training by June 30, 2017. This rule is also being amended to clarify that the training document only has to be given to employees if it is not stored in the Ohio Professional Registry (OPR) and to require the one hour child abuse training be taken within the first 60 days of employment instead of the first 30 days.

5101:2-12-12 "Safe equipment and environment for a licensed child care center" outlines the requirements for safe equipment and environments in a licensed child care center. This rule is being amended to update the weapons language to implement the changes to Ohio's Concealed Carry law as required by Amended Substitute Senate Bill No. 199 of the 131st General Assembly.

5101:2-12-13 "Sanitary equipment and environment for a licensed child care center" outlines the requirements for sanitary equipment and environments for a licensed child care center. Appendix B to this rule is being amended to remove the 15 second requirement to wash

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hands, to remove the requirement that staff must wash hands when moving from one group to another or after removing disposable gloves, to add that staff must wash hands when visibly soiled and to allow the use of hand sanitizer for staff and all children over 24 months.

5101:2-12-14 "Transportation and field trip safety for a licensed child care center" outlines transportation requirements for a licensed child care center. Appendix A to this rule is being amended to clarify that a single permission slip can apply to multiple routine trips or multiple field trips.

5101:2-12-16 "Emergency and health-related plans for a licensed child care center" outlines medical, dental, first aid and communicable disease procedures, incidents and injuries and disaster planning for a licensed child care center. This rule is being amended to update the revision date of the JFS 01156 "Serious Incident Reporting for Child Care." Appendix A to this rule is also being amended to remove "A guide to emergency first aid" from the list of first aid kit contents.

5101:2-12-18 "Group size and ratios for a licensed child care center" outlines the requirements for staff to child ratios and grouping in a licensed child care center. This rule is being amended to clarify that programs are no longer required to document on the daily attendance records the schedule of a child who is transitioning and to add language that an additional employee or child care staff member is only needed to be onsite if there are seven or more children present. This rule is also being amended to allow school-age programs to leave children at double ratio to answer the door, to clarify that attendance records for in and out times are only required at the program level (not group), to allow flexibility in tracking group attendance and to remove the language prohibiting bumping children to maintain ratio. Although bumping is not best practice for the children, it is an issue to be addressed between the center and caretaker(s).

5101:2-12-23 "Infant care and diaper care for a licensed child care center" outlines requirements when caring for infants in a licensed child care center. This rule is being amended to remove the requirement that programs ensure that each child has a clean supply of diapers and an extra change of clothing available at all times.

5101:2-12-25 "Medication administration, food supplements and medical foods for a licensed child care center" outlines the requirements for administering medication and modified food diets for a licensed child care center. This rule is being amended to clarify the requirements for non-prescription medication.

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

ORC 5104.015

ORC 5104.016

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.

Yes, Child Care Development Fund (CCDF) rules require that all publicly funded providers are inspected annually, meet training requirements and are regulated on specific health and safety topics. In Ohio, licensing rules do not differentiate between publicly funded and non-publicly funded programs because the requirements benefit all children.

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.

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.

The department received suggested rule changes from the Ohio Alliance of Early Learning Advocates in November 2016 and from stakeholder meetings held on January 31, 2017 and March 17, 2017. These meetings were convened at the request of the Office of Common

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Sense Initiative to gather stakeholder feedback after the December 31, 2016 effective date of the rewritten child care licensing rules. The draft rules were also reviewed by the Child Care Advisory Council's Policy (CCAC) Subcommittee on April 27, 2017. Comments from each of these meetings were incorporated prior to the public Clearance process. The proposed rules and forms were in Clearance from May 16, 2017 through May 30, 2017. ODJFS received comments from nine individuals. New input will continue to be carefully considered during and immediately following the public hearing comment period.

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

The changes in this package were identified by the stakeholders during the January and March meetings. The CCAC policy committee supported the changes as well. Comments received during the Clearance process that did not align with the focus group requests or with the Federal requirements of the Child Care Development Block Grant were not incorporated.

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 5104.015.

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.jfs.ohio.gov/index.stm>. 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;

There are approximately 4,168 licensed child care centers throughout Ohio.

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

These proposed changes are designed to reduce time and costs for child care providers as follows: Child care staff orientation does not have to be retaken if the staff changes programs or owners, the amount of paperwork will be reduced as the training document only has to be given to employees if it is not stored in the Ohio Professional Registry (OPR); a single permission slip can apply to multiple routine trips or multiple field trips and the schedule transitioning children no longer has to be documented. Also, an additional employee or child care staff member will only be required to be onsite if there are seven or more children present; and programs are no longer required to provide a clean supply of diapers or an extra change of clothes for children. The handwashing changes reduces the detailed level of oversight by ODJFS (by removing the specific number of seconds to wash hands), and also gives programs options for handwashing (soap and water versus hand sanitizer), and reduces the instances in which handwashing is mandated.

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.

The amended parts of these rules do not have an adverse impact on businesses. There are no anticipated additional costs for complying with these requirements.

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 providers may incur because these licensing standards are mandated to ensure the health and safety of children. Ohio Revised Code requires child care centers to be regulated.

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 in Ohio Website located at <http://jfs.ohio.gov/CDC/childcare.stm>

Child Care Policy Helpdesk

CHILDCAREPOLICY@jfs.ohio.gov

1-877-302-2347 option 4

EManual for child care located at: <http://emanuals.jfs.ohio.gov/index.stm>

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

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

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