

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Job and Family Services

Regulation/Package Title: OFA CC Day Camps 2017

Rule Number(s): 5101:2-18-02; 5101:2-18-03; 5101:2-18-04; 5101:2-18-05; 5101:2-18-06;

5101:2-18-07; 5101:2-18-08; 5101:2-18-09; 5101:2-18-10; 5101:2-18-11; 5101:2-18-12;

5101:2-18-13

Date: 11/13/17

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☐ Rescinded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The filing of rule 5101:2-18-02 replaces rescinded rule 5101:2-18-03 for re-numbering and to update the registration process for child day camps in the state of Ohio.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

The filing of the other 11 new rules contain changes resulting from updated federal requirements of the Child Care Development Block Grant (CCDBG) Act of 2014. The CCDBG Act of 2014 requires background checks for all child care providers including approved child day camp providers, and requires that providers of publicly funded child care (PFCC) services demonstrate that they follow minimum health and safety standards through inspections and monitoring by the Ohio Department of Job and Family Services (ODJFS). Currently, approved camps must be accredited by the American Camp Association (ACA) but are not required to be inspected or otherwise monitored by ODJFS. The new rules set forth the requirements for approval and monitoring by ODJFS of child day camps that wish to provide PFCC services. Language requirements in these new rules are purposefully written with a consideration for small business, so as to not impede or inhibit the viability of small business owners.

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.

5101:2-18-02 "Requirements for child day camp registrations" is a new rule that outlines the registration process for child day camps, including how to register, effective dates and sanctions for not registering or for providing false or misleading information. This rule clarifying to update that registration is now completed online in the Ohio Child Licensing and Quality System (OCLQS). It replaces rescinded rule 5101.2-18-03. **Rescinded** rule 5101-2-18-02 was rescinded because it duplicated 5104.21 of the Ohio Revised Code.

5101:2-18-03 "Application for approved child day camps" is a new rule that sets forth the application process and required documents for a child day camp to be approved to provide PFCC services, as well as required information that must be kept current in the Ohio child licensing and quality system (OCLQS) and the provider portal.

5101:2-18-04 "Compliance inspection and complaint investigation of an approved child day camp" is a new rule that sets forth the guidelines for ODJFS inspections and investigations of approved child day camps and outlines the appeal process if camps disagree with ODJFS findings.

5101:2-18-05 "Child day camp administrator requirements for an approved child day camp" is a new rule that sets forth the responsibilities of the approved child day camp administrator and paperwork requirements for enrolled children.

5101:2-18-06 "Lead counselor, junior counselor, counselor-in-training and employee requirements in an approved child day camp" is a new rule that sets forth the requirements for those working at or assuming leadership roles in approved child day camps, including age requirements, supervision requirements and orientation requirements.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

5101:2-18-07 "Background check requirements for an approved child day camp" is a new rule that sets forth the background requirements that must be completed before owning, operating or working at an approved child day camp. It outlines which checks are included, how to obtain the checks, prohibited offenses and rehabilitation standards for crimes.

5101:2-18-08 "Training and professional development requirements for an approved child day camp" is a new rule that sets forth the trainings and professional development requirements for staff and the documentation requirements to verify trainings.

5101:2-18-09 "Supervision of children and ratios for an approved child day camp" is a new rule that sets forth the staff to child ratio requirements, the supervision requirements for approved child day camp staff members, attendance documentation and child tracking requirements and permitted and prohibited child guidance techniques.

5101:2-18-10 "Emergency, disaster and health-related plans for an approved child day camp" is a new rule that sets forth the disaster plan requirements, including which emergencies, disasters and health related incidents must have written action plans and what must be included in the plans. This rule also outlines the procedures for federally mandated serious incident reporting.

5101:2-18-11 "Administering medication and caring for children with special health needs at an approved child day camp" is a new rule that sets forth the requirements for administration of prescription and non-prescription medications, including documentation requirements, storage requirements, staff training requirements and requirements for children with special health needs.

5101:2-18-12 "Transportation and field trip safety for an approved child day camp" is a new rule that sets forth the requirements for trips, drivers, vehicles and vehicle inspections for approved child day camps.

5101:2-18-13 "Safe and sanitary equipment and environment in an approved child day camp" is a new rule that sets forth the safety requirements, including equipment and furniture requirements, safety gear requirements for specialized activities, safety zone and boundary requirements for applicable specialized activities, storage requirements for potentially hazardous equipment, swimming and water safety requirements, and the requirements for the care, housing and inoculation of pets and animals at an approved child day camp. This rule also outlines the cleaning requirements for maintaining a sanitary environment, toileting and handwashing requirements and when and how water supplies should be tested to ensure safe human consumption.

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

ORC 5104.21

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

- 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, the Child Care Development Block Grant (CCDBG) Act of 2014 requires the following five background checks be completed for each individual who owns, works or applies to work in a child care program including a child day camp:

Bureau of Criminal Investigations (BCI)

Federal Bureau of Investigation (FBI)

National Sex Offender Registry

State Sex Offender Registry

Statewide Automated Child Welfare Information System (SACWIS)/Child Welfare

Additionally, the CCDBG Act of 2014 requires that all publicly funded child day camps are inspected annually by ODJFS, meet training requirements and are regulated on specific health and safety topics.

- 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 requirements for day camp registrations, as well as regulations for minimum health and safety standards for approved child day camp 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 approval and ongoing inspections and complaint investigations, through the monitoring of serious incident reports submitted by regulated providers and through materials submitted to address non-compliances.

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

American Camp Association, Ohio

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 period. Consultations with staff and of the American Camp Association, Ohio were held, and an in-depth review of the ACA standards was performed during the drafting and clearance process to ensure ODJFS requirements were closely aligned with ACA accreditation requirements to minimize workload, ensure there was no duplication of work and eliminate unnecessary paperwork for child day camps. The draft rules were reviewed by the Child Care Advisory Council's Policy Subcommittee on August 24, 2017. Comments from this meeting were incorporated prior to the public Clearance process. The proposed rules and forms were in Clearance from September 5, 2017 through September 19, 2017. ODJFS received comments from two individuals and some of those comments were incorporated. However, comments that did not align with the requirements of the Child Care Development Block Grant were not incorporated. 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 CCDBG Act of 2014 and the statutory requirements of ORC 5104.21 and 5104.22.

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 including child day camps.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

Rules are reviewed by ODJFS licensing 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.

The online registration process is the same for each child day camp. ODJFS staff receive and process all child day camp registrations online in the OCLQS system. ODJFS licensing specialists utilize a software system to inspect approved child day camps. ODJFS help desk staff provide support and assistance to child day camp providers and families regarding the provisions of the rules. Formal notification of the rules is provided to child day camp providers, families and others by use of an emanual for child day camps which is located at <http://emanuals.odjfs.state.oh.us/emanuals/>. Updates from ODJFS can be received by signing up for the 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 currently 158 registered child day camps and 70 approved child day camps.

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

The costs will vary by provider. The amended rule does not create any new costs. Costs already in place include registration fees and time to complete the registration. Failing to register or knowingly providing false information will result in paying a registration fee that is three times the regular registration fee.

New costs associated with the other 11 rules include application requirements to obtain ODJFS approval to provide publicly funded child care services. Efforts have been made in these new rules to streamline processes so that work already done to achieve and maintain ACA accreditation can be accepted by ODJFS to off-set any new costs. Fees were kept to a minimum to help keep costs down, including the absence of the \$250-\$500 fee normally charged for the ODJFS licensing process. Costs already in place includes registration fees (\$25 dollars per camp per year, not to exceed \$250 dollars). New costs may include costs for criminal records checks, employer time for training, completion of forms and documentation, and the creation of policies and procedures. If applicable, new costs may also include costs for updated equipment, safety gear for specialized activities, and costs for the care, housing and inoculation of pets and animals used for programming purposes.

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 following rule replaces 5101:2-18-03 for re-numbering and amending the registration process:

5101:2-18-02 – Non-exempt child day camps are required to register with ODJFS before operating. The registration fee for a child day camp is \$25 per camp, not to exceed \$250 dollars. The final cost will vary depending on how many camps an owner must register. There will be costs associated with the time it takes to fill out and submit the registration, which is estimated to take approximately 30 minutes per camp.

The following rules contain the requirements and accompanying estimated costs to child day camps approved to provide PFCC services:

5101:2-18-03 –Time involved in completing the online application and JFS 01282 "Plan of Operation for Child Day Camp." The actual amount cannot be estimated because costs will vary depending on the business model of each child day camp.

5101:2-18-04 – There will be costs associated with the child day camp providing written materials to address non-compliances as well as completing the JFS 01283

"Request for review for an Approved Child Day Camp" for requesting review of a noncompliance, if applicable.

5101:2-18-05 – The actual amount cannot be estimated because costs will vary depending on the business model of each child day camp. There will be costs associated with administrator time to fill out forms, create policies and procedures, attend pre-camp orientation, and maintain files for enrolled children.

5101:2-18-06 – The actual amount cannot be estimated because costs will vary depending on the business model for each child day camp. There will be costs associated with maintaining staff files and the time spent by child day camp staff members viewing the required orientation training.

5101:2-18-07 – Child day camp staff and employees are required to submit fingerprints for BCI and FBI checks. The average costs for a BCI is \$22.00 and the average cost for a FBI check is \$24.00. Costs will vary depending on the number of staff a program employs.

5101:2-18-08 – Child day camp administrators and staff members are required to take health and safety trainings as well as five hours of professional development each year. Costs will vary depending on the number of staff a program employs and the training classes taken.

5101:2-18-09 – Child day camps will need appropriate staff for ratio and supervision and for completing attendance records. The costs will vary depending on the number of staff and children enrolled at the child day camp.

5101:2-18-10 – Child day camps are required to develop emergency and disaster plans and report to ODJFS when a serious incident happens at the camp. There will be staff time involved in these tasks.

5101:2-18-11 – Child day camps that administer medications may incur costs filling out administration of medication forms, maintaining camper files and ensuring that a medical professional has completed forms when needed. There may be costs associated with training staff members to monitor and administer procedures for campers with special health care needs. Costs vary depending on child day camp policy.

5101:2-18-12 – Child day camps will need appropriate staff for ratio and supervision requirements during field trips and routine trips. These costs will vary depending on the number of staff and children on each trip. There will be costs associated with training drivers and maintaining files for drivers. The costs will vary depending on

how many drivers a day camp requires and whether the drivers are employed or contracted by the camp. Child day camps 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.

5101:2-18-13 – Child day camps are required to have age-appropriate equipment and furniture available that is in good repair. The cost will vary depending on the amount and type of products used. Safety gear that is appropriately sized and designed specifically for specialized activities will be required of camps that offer these activities. The cost will vary depending on the amount and type of products used. If water activities are offered, there will be costs associated with documenting parental permission for these activities, with appropriate staff for ratio and supervision, and with certified lifeguards when children are permitted to swim. Costs will vary depending on the number of children, if swimming pools are public or private, the number of lifeguards needed, and the city in which the pool or natural body of water resides. There will be costs associated with housing, licensing, caring for and inoculating any animals at the camp. The cost will vary depending on the number of animals and the requirements for each type of animal. Child day camps are required to use cleaning and sanitizing products and maintain liquid soap and paper towels or hand sanitizer when liquid soap and running water is not available. Costs will vary depending on amount and type of products used. There will be costs associated with daily cleaning of areas used by campers. There may be costs associated with testing the water supply depending on the type of water system.

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 day camp providers may incur because these standards are mandated to ensure the health and safety of children. Ohio Revised Code requires all child day camps to be registered. Federal law requires approved day camps to be regulated.

Regulatory Flexibility

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

No. Registration and approval standards for child day camps are mandated by the Ohio Revised Code and the CCDBG Act of 2014. Exemptions for the registration process are outlined in 5104.21 of 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

1-877-302-2347 option 4

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

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