



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Department of Job and Family Services

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

2019 Day Camps

Rule Number(s): 5101:2-18-02 and 5101:2-18-05

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

☐ New/____ rules

☐ No Change/____ rules (FYR? ____)

☒ Amended/____ rules (FYR? ____)

☐ Rescinded/____ rules (FYR? ____)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- ☒ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☒ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☒ c. Requires specific expenditures or the report of information as a condition of compliance.
- ☐ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. 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 registered child day camps" describes requirements for registered child day camps. This rule is being amended to align with budget language from Am. Sub. H.B. 166, 133rd G.A. regarding criminal record checks and rehabilitation requirements.

5101:2-18-05 "Child day camp administrator requirements for an approved child day camp" describes the duties of the child day camp administrator. This rule is being amended to implement the Am. Sub. HB 166 of the 133rd General Assembly to add that no administrator, employee or child day camp staff member shall discriminate in the enrollment of children upon the basis of race, color, religion, sex, disability, or national origin.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

5101:2-18-02: ORC 5104.21

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5101:2-18-05: ORC 5104.21 and 5104.22

- 4. 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, and the Statewide Automated Child Welfare Information System (SACWIS)/Child Welfare.

- 5. 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.

- 6. 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)?**

5101:2-18-02: These changes, promulgated pursuant to the requirements of the Ohio Revised Code, establish regulations for criminal check requirements of registered child day camp administrative policies and procedures.

5101:2-18-05: This change ensures that no administrator, employee or child day camp staff member shall discriminate in the enrollment of children upon the basis of race, color, religion, sex, disability, or national origin.

- 7. 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 random sampling by ODJFS of submitted background checks and through materials submitted to the county department of job and family services by the registered camps to address any compliance issues determined during the random sampling. Stakeholders also provide continuous input into the regulations.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

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If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Yes. These rules are being amended as a result of the review of our operations to identify principles of law or policy that have not been stated in a rule and that the agency is relying upon in conducting adjudications or other determinations of rights and liabilities pursuant to section 121.93 of the Revised Code.

Development of the Regulation

9. 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 policy subcommittee of the Child Care Advisory Council met to review these proposed changes on Thursday, August 15, 2019.

The rules are available for the public clearance process. Clearance began on 08/13/2019 and will conclude on 08/27/2019.

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

Anything identified during clearance will be incorporated as necessary prior to original filing the rules. As of 08/16/2019, no comments related to this package have been received through the clearance process.

No changes to the rules were identified and requested by the subcommittee.

11. 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.

12. 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 changes were promulgated to comply with the statutory requirements of ORC 5104.013 and 5104.09.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

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Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

No, these changes were developed to implement state mandates under Ohio Revised Code 5104. intended to increase the health, safety, and general well-being of children in registered day camps.

14. 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.

15. 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 help desk staff provides support and assistance to registered child day camps and families regarding the provisions of the rules. Formal notification of the rules is provided to registered child day camps, families and others by use of an e-manual 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

16. 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; and

There are approximately 170 registered day camps. Of these, 134 are registered but not approved day camps and 36 are registered and approved.

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

The costs will vary by provider. The actual cost will vary based on the program's business model as well as the individual's new role at the program. Costs already in place include license fees, equipment, BCI and FBI checks, employer time for completion of forms and documentation.

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

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“representative business.” Please include the source for your information/estimated impact.

The amended rule contains the existing requirements and accompanying estimated costs to registered child day camps.

5101:2-18-02 – Registered child day camps are required to submit fingerprints for themselves and staff to undergo a BCI and FBI check. The average costs for a BCI is \$32.00 and the average cost for a FBI check is \$34.00. Costs will vary depending on the number of people in the day camp and staff a day camp employs. Although this is new rule language, it is not a new requirement or cost for registered day camps. The requirement moved from section 2151.86 of the Revised Code to section 5104.013 of the Revised Code.

17. 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 registered child day camps may incur because these standards are mandated to ensure the health and safety of children. Ohio Revised Code requires registered day camps to submit fingerprints for BCI and FCI criminal record checks.

Regulatory Flexibility

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

No. Standards for registered child day camps are mandated by the Ohio Revised Code.

19. 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.

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

ODJFS provides technical assistance through technical assistance staff, technical assistance documents, 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

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CHILDCAREPOLICY@jfs.ohio.gov

1-877-302-2347 option 4

E-Manual 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/>

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