



Common Sense Initiative

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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):

OFA: Child Day Camp Five-Year Review

Rule Number(s): 5101:2-18-02; 5101:2-18-03; 5101:2-18-04; 5101:2-18-05; 5101:2-18-06; 5101:2-18-08; 5101:2-18-09; 5101:2-18-10; 5101:2-18-11; 5101:2-18-12; 5101:2-18-13

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/ 1 rules

No Change/ _____ rules (FYR?)

Amended/ 10 rules (FYR? Y)

Rescinded/ 1 rules (FYR? Y)

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.

These revisions are for the five-year review and are made to simplify language, correct errors and clarify processes, and to add federal requirements.

5101:2-18-02 "Requirements for registered child day camps not seeking approval to provide publicly funded child care" is a new rule that replaces **rescinded rule 5101:2-18-02 "Requirements for child day camp registrations"** because the rule was changed to question and answer format.

The following changes were made:

- Clarified background check requirements, including listing specific staff members of registered child day camps who are required to get background checks, and re-wording some paragraphs to simplify language and for clarity
- Clarified that registered child day camps must comply with inspections by the Ohio Department of Job and Family Services (ODJFS) to determine compliance with section 5104.013 of the Revised Code in new paragraph (E)(2)
- Moved paragraph (C) of rescinded rule 5101:2-18-02 to new paragraph (F) of this rule.

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Appendix A to rule 5101:2-18-02 replaces **rescinded Appendix A to rule 5101:2-18-02** and outlines the rehabilitation standards for registered child day camps. No changes were made to the language of this appendix.

5101:2-18-03 "Approved child day camp registration and application" has been amended to include registration requirements for approved day camps previously included in rule 5101:2-18-02.

The following changes were made:

- Moved old paragraph (A) of this rule to new paragraph (D) of this rule
- Corrected the name of the required pre-camp orientation training
- Replaced a reference to a rescinded rule with the updated rule number
- Replaced a reference to the Child Care Information Data System (CCIDS) provider portal with the Ohio Child Licensing and Quality System (OCLQS)
- Relocated the requirements to maintain private pay rates from paragraph (H) of this rule to paragraph (J) of this rule
- Replaced references to an obsoleted form with the new electronic process

Appendix A to rule 5101:2-18-03 has been amended with the following changes:

- Removed revision dates from forms
- Replaced references to obsoleted forms with electronic processes
- Corrected language regarding the documentation needed when meals or snacks are provided by an off-site food processing requirement to align with requirements of the Ohio Department of Health (ODH) and the Ohio Department of Agriculture (ODA)
- Added the emergency and disaster plan as a document required at application
- Clarified the electronic process for requesting a background check

5101:2-18-04 "Compliance inspection and complaint investigation of an approved child day camp" has been amended to clarify the process for submitting a corrective action plan, and to clarify that additional inspections or compliance materials may be required when non-compliances are found.

5101:2-18-05 "Child day camp administrator requirements for an approved child day camp" has been amended with the following changes:

- Clarified child day camp administrator responsibilities to include a reference to the Revised Code, to clarify time on site requirements when more than one administrator is affiliated with the program and to clarify documentation requirements
- Created new paragraph (B) to group OPR and documentation requirements into one paragraph
- Added that child day camp administrators must create or update the approved child day camp's organizational dashboard in the OPR as we move toward paperless processes

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- Added that child day camp administrators should ensure employees create or update their records in the OPR before their first date of hire and within five days of changes to positions or roles because we are moving toward paperless employee files
- Added that the approved child day camp's organizational dashboard must be updated within five days of a change for employees and child day camp staff members, including scheduled days and hours, group assignments, and end dates of employment because we are moving toward paperless employee files, training verifications and background check processes.

Appendix A to rule 5101:2-18-05 has been amended with the following changes:

- Replaced paragraphs with bulleted lists for readability
- Added that approved child day camp administrators must include suspension and expulsion policies to comply with CCDBG requirements
- Added that approved child day camp administrators must clarify the difference between "disenrollment" and "expulsion" based on recommendations from the Early Childhood Inclusion State Leadership Team
- Added ADA requirements based on recommendations from the Early Childhood Inclusion State Leadership Team
- Clarified administration of medication policy requirements
- Clarified transportation policy requirements
- Added that water activity/swimming policy must include the camp's policy for excluding children from water activities due to disability or difficulty of the activity, based on recommendations from the Early Childhood Inclusion State Leadership Team

Appendix B to rule 5101:2-18-05 has been amended to include the process for filing a discrimination complaint, and to remove a reference to early intervention services, since these services do not apply to school-age children.

5101:2-18-06 "Lead counselor, junior counselor, counselor-in-training and employee requirements in an approved child day camp" has been amended with the following changes:

- Updated URLs to websites
- Corrected the title of the required pre-camp orientation
- Removed paragraph (E)(5) which required staff members employed prior to the effective date of the rule to take the pre-camp orientation by July 1, 2018

5101:2-18-08 "Training and professional development requirements for an approved child day camp" has been amended to clarify that the first aid and CPR trainings are both to follow a curriculum that is appropriate to the age and developmental levels of the children in care, due to federal requirements.

Appendix A to rule 5101:2-18-08 has been amended to clarify that first aid classes are to follow a curriculum that is appropriate for the ages and developmental levels of the children in care.

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5101:2-18-09 "Supervision of children and ratios for an approved child day camp" has been amended with the following changes:

- Clarified that the original written attendance records must be kept on file for one year
- Clarified the meaning of supervision

Appendix A to rule 5101:2-18-09 has no changes.

5101:2-18-10 "Emergency, disaster and health-related plans for an approved child day camp" has been amended with the following changes:

- Added that an emergency/lockdown drill must be conducted based on federal CCDBG requirements
- Added that the emergency and disaster plan must include details about emergency lockdowns based on federal CCDBG requirements
- Added that the emergency and disaster plan must include details about continuity of operations based on federal CCDBG requirements

Appendix A to rule 5101:2-18-10 has no proposed changes.

5101:2-18-11 "Administering medication and caring for children with special health needs at an approved child day camp" has been amended with the following changes:

- Clarified that approved child day camps must document when children administer their own medication
- Moved paragraph (A)(7) to paragraph (A)(6) for clarification
- Added medical foods and topical products to paragraph (B) for clarification
- Clarified that a statement from a physician, physician's assistant, advanced practice registered nurse or certified nurse practitioner must be on file indicating that a child has been immunized or is in the process of being immunized based on ORC and federal CCDBG requirements
- Corrected the language in paragraph (C)(3) by removing "to prevent a disease on the appendix of this rule" and replacing with "against the diseases required by division 5104.014 of the Revised Code and found in appendix A to this rule" for clarity and consistency with ORC
- Clarified the procedures and requirements for written medical care plans
- Added that immunization records are subject to review by ODH for disease outbreak control and for immunization level assessment purposes
- Clarified child medical record retention requirements

Appendix A to rule 5101:2-18-11 has no proposed changes.

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5101:2-18-12: "Transportation and field trip safety for an approved child day camp" has been amended with the following changes:

- Added medication requirements to the list of reasons the medical health form is required on field trips
- Added that reasonable accommodations must be provided for children with special needs so that they are not excluded from trips, based on recommendations from the Early Childhood Inclusion State Leadership Team
- Clarified that an additional adult in a vehicle may be the driver, a parent or a volunteer
- Removed the requirement that valid driver's licenses must be checked and kept on file, because this is already required by the American Camp Association (ACA)
- Removed the requirement that the driver must be free of any substance which could impair driving abilities. This is regulated by the state highway patrol or other law enforcement agency
- Clarified that all passengers, including the driver, must follow the state of Ohio's child restraint law
- Removed a reference to an outdated form
- Clarified that transportation contracts must be kept on file for review
- Removed revision dates from forms
- Added safety inspection requirements for new vehicles bought directly from the dealer
- Added federal motor carrier safety administration (FMCSA) safety inspectors and the Ohio state highway patrol as qualified inspectors of vehicles
- Added that the approved child day camp must prepare buses before each trip following the Ohio department of education's (ODE) operational and safety rules of Chapter 3301-83 of the Administrative Code

Appendix A to rule 5101:2-18-12 has no proposed changes.

5101:2-18-13: "Safe and sanitary equipment and environment in an approved child day camp" has been amended with the following changes:

- Removed paint "which contains lead or other poisonous materials" and replaced with "peeling or chipping" paint
- Removed the word "any" and replaced with "all" for clarity
- Added that children must be protected from vehicular traffic and bodies of water, based on CCDBG requirements

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- Clarified that if a potential lead hazard is identified, ODJFS will make a referral to the appropriate agency
 - Clarified that children may use cleaning equipment and cleaning agents with adult supervision
 - Added lead poison hazard requirements for renovations and remodeling areas in which programming takes place
 - Corrected misspellings
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.**
5104.21, 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, these rules implement federal health and safety requirements for the child day camp provider and children.
5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**
These 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)?**
These rules, promulgated pursuant to the requirements of the Ohio Revised Code, establish operating procedures and health and safety guidelines for child day camps.
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 inspections conducted at the initial issuance of approval and at least once each summer, through the monitoring of incident reports submitted by regulated child day camp providers and through complaint investigations. Stakeholders also provide continuous input into the regulations and their ability to comply with the rules.
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?**
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

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Not applicable.

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 Child Care Advisory Council (CCAC) consists of twenty-two voting members appointed by the director of the Ohio Department of Job and Family Services as prescribed in section 5104.08 of the Ohio Revised Code. Members include for-profit and non-profit child care centers; parents; family child care home providers; county department of job and family services agencies staff; individuals interested in the welfare of children; and ex-officio members from other state agencies. The council reviewed these rules on October 27, 2022.

ODJFS made the proposed rules available for public comment from October 31, 2022 through November 14, 2022. There were 17 comments from one individual on the rule package.

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

The provider indicated that the definition of "Child Day Camp Owner" was not clearly defined. Wording was added to the definition of "Child Day Camp Owner" to make clearer that an owner includes a person as "person" is defined in Section 1.59 of the Ohio Revised Code. In Section 1.59 paragraph (C) of the ORC, a "Person" includes an individual, corporation, business trust, estate, trust, partnership, and association.

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?

Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

These rules were promulgated to comply with the statutory requirements of ORC 5104.21 and 5104.22. These revisions are being implemented to meet federal Child Care and Development Block Grant (CCDBG) requirements for the health and safety of staff and children being served by the child day camp provider, and to implement recommendations from an interagency workgroup on inclusive practices. Therefore, alternative regulations were determined to be inappropriate.

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13. 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 to ensure there is no duplication of our agency or other agency rules

14. 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 approved child day camps. ODJFS help desk staff provides support and assistance to approved 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 care which is located at <http://emanuals.odjfs.state.oh.us/emanuals/>.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

There are approximately 180 registered day camps throughout Ohio. Of these, 25 are registered and approved day camps. All non-exempt day camps are required to register; and in order to provide publicly funded child care (PFCC) day camps must be approved as well.

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

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.

Costs already in place include registration fees, time to complete the registration, time to obtain ODJFS approval to provide PFCC services, costs for criminal record checks, employer time for training, completion of forms and documentation, and the creation of written policies, procedures and plans.

Failing to register or knowingly providing false information will result in paying a registration fee that is three times the regular registration fee.

There may be costs associated with equipment and safety gear, and costs for the care, housing and inoculation of pets and animals used for programming.

New costs associated with the amendments may include time for developing additional written policies and procedures if they are not already in place, creating and updating the approved child day camp's organization dashboard in the OPR, and ensuring employment records in the OPR are current and accurate.

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New costs also may include time costs for federally required additions to the camp's Emergency and Disaster plan to include emergency lockdowns and continuity of operations in an extended emergency. Time costs will also be associated with the federal requirement for a yearly lockdown drill.

The costs for a provider to comply with the requirements of the rules are based on factors including, but not limited to, facility size, business model, number of children enrolled in the program, and number of child day camp staff members and employees.

Time costs to develop additional written policies, procedures and plans will vary depending on the above factors. Most approved child day camps should already have detailed Emergency and Disaster Plans in place, based on ACA accreditation standards. If these plans meet all the federal requirements, then nothing else will need to be developed. If providers must add sections to their plans, it should take approximately 30 minutes.

Similarly, if programs are already conducting at least one lockdown drill per year, they already meet the federal requirement and no other changes will be needed if upon inspection the drills are verified with written documentation.

If programs are not already conducting lockdown drills, then time will be needed to develop written plans, train staff, and conduct and document lockdown drills. This time will vary depending on the child day camp program, as noted above.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*). Some requirements for reviewing documentation were eliminated. As programs become paperless, documentation requirements will become streamlined and easier for licensing specialists to find, reducing the burden on providers to provide the documentation. Providers will not have to keep paper copies of some files if files are updated in the system. Rules have been re-written for clarity and readability.

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 child day camp providers may incur because these approval standards are federally mandated to ensure health and safety of children. Ohio Revised Code requires approved child day camps to be regulated.

Regulatory Flexibility

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

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No. The concept of an alternative means of compliance is not suited for these federal CCDBG protocols.

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, eManual, and help desks.

ODJFS provides the following:

Child Care Policy Helpdesk:
CHILDCAREPOLICY@jfs.ohio.gov
1-877-302-2347 option 4

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