

**MEMORANDUM**

TO: Chris Castle, Ohio Department of Education

FROM: Sophia Papadimos, Regulatory Policy Assistant

DATE: February 25, 2014

RE: **CSI Review – Chapter 3301-37 Child Day-Care Programs (OAC 3301-37-01, 3301-37-02, 3301-37-03, 3301-37-04, 3301-37-05, 3301-37-06, 3301-37-07, 3301-37-08, 3301-37-09, 3301-37-10, 3301-37-11, 3301-37-12)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of twelve amended rules being proposed by the Ohio Department of Education (ODE) pursuant to the five-year review requirement of ORC 119.032. The proposed rules pertain to child day-care programs. The draft rules were submitted to the CSI Office on January 23, 2014 and the comment period closed on February 3, 2014. There were two comments received during this time. One commenter was concerned that the record-keeping and maintenance costs discussed in the BIA were not an accurate estimate and the second comment referenced changing the language of three of the rules. However, ODE decided the rules did not need to be amended due to the general acceptance of the draft rules during the prior stakeholder outreach.

Stakeholder outreach was conducted in December 2013 in several forms. An electronic notification was sent to all entities licensed by ODE to review and comment on the proposed rules. Additionally, there was a meeting held where representatives were selected by

superintendents or administrators of programs currently licensed by ODE. The group included participants from local school districts, educational service centers, county boards of developmental disabilities, joint vocational schools, and eligible nonpublic schools. The majority of the comments received were in regard to clarification and ODE incorporated the suggestions into the draft rules.

The rules explain the application requirements for licensing day-care programs and the staff's responsibilities/duties. A day-care program must submit a copy of a fire inspection, food license, and a building approval document during the application process. Additionally, the rules articulate the items day-cares are expected to have/provide for children, along with safety requirements (protective playground covers, outlet covers, and locked medication containers). The proposed rules address that the diapering of children must be done in a sanitary and safe environment. Children must have cots or mats for resting and cribs must meet the United States Consumer Product Safety Commission safety standards. Child day-care programs must have indoor and outdoor space for children to use, along with appropriate furniture and equipment. The program must supply healthy snacks and if a child is attending the program for four hours or longer, a meal must be provided. Programs must have written discipline policies for children attending the day-care center and the policies must ensure the safety, physical, and emotional well-being of all children. Lastly, the rules articulate the importance of managing communicable diseases. A person trained to recognize the signs of communicable disease must observe each child as he or she enters the classroom every day. A child displaying any symptoms of illness shall be isolated from the other children. A majority of the proposed changes in the rules are for clarification purposes. The other amendments are related to changes in state law or federal regulations.

The adverse impacts identified in the BIA are the financial costs and time required to be in compliance with the rules. Administrative time is needed to submit an application for a preschool program license, maintain records and reports, and develop a curriculum and policies. Financial impacts include the equipment and supplies for indoor furniture/classroom materials, which range from \$7,000-\$15,000, depending on the quality of items purchased. Cribs must now meet federal guidelines; the cost of a new crib ranges from \$130-\$500. Cots or mats for resting/napping are required for children attending programs for more than five hours per day. Programs have the option to request a child bring a mat/cot or, according to ODE, they can be purchased for approximately \$23. During the application process a program must submit a copy of a fire inspection (\$0-\$50), a food license or license exemption (\$300-\$600), and a building approval document (\$0-\$300).

While the abovementioned expenses are not minimal, the BIA explains the adverse impacts are necessary in order to ensure the safety and health of the children. ODE cites research from the American Public Health Association and the American Academy of Pediatrics. The research

resulted in a comprehensive set of health and safety standards to increase the quality of child care. ODE is meeting the standards suggested by professionals in the public health and medical fields. Therefore, the CSI Office has determined that the purpose of the rules is justified.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that ODE should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Director of Regulatory Policy