



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: July 23, 2021

RE: **CSI Review – Child Care Center Licensing #1 (OAC 5101:2-12-11, 5101:2-12-13, 5101:2-12-16 through 5101:2-12-21, 5101:2-12-23, and 5101:2-12-24)**

On behalf of Lt. Governor Jon Husted, 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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of ten amended rules proposed by the Ohio Department of Job and Family Services (ODJFS) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on June 25, 2021, and the public comment period was held open through July 2, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 25, 2021.

Ohio Administrative Code (OAC) Chapter 5101:2-12 establishes licensing requirements for child care centers. OAC 5101:2-12-11 sets requirements for child care center indoor and outdoor spaces, including square footage per child, outdoor play equipment, and fall zones. The rule is amended to allow the use of dividers to serve additional groups of children and functionally linked play equipment, provide clarification for outdoor barriers, and include additional fall zone clearance for children of certain ages. OAC 5101:2-12-13 concerns sanitary equipment and environments and is amended to clarify requirements for trash storage, toothbrush handling, and hand washing facilities. OAC 5101:2-12-16 requires centers to have plans for medical, dental, and disaster emergencies, first aid kits, emergency lockdown drills, and communicable disease prevention. The

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rule is amended to remove unnecessary revision dates, require annual training for disaster plans and child medical records to travel with a child being transported for medical emergency, and clarify serious incident criteria. OAC 5101:2-12-17 sets requirements for child care center programming, which includes daily schedules and activities, and materials and equipment, such as play equipment and furniture. The rule is amended to ensure that sufficient materials are provided for each child. OAC 5101:2-12-18 and 5101:2-12-19 concern child group sizes and supervision and are amended to provide explicit age group transition language and reporting requirements for when a child is expelled for behavioral issues. OAC 5101:2-12-20 and 5101:2-12-21 establish requirements for napping and overnight care and are amended to specify that the sleep position waiver is valid for one year and other clarifying edits. OAC 5101:2-12-23 concerns infant daily care, including monitored activities, feeding, and diapering. The rule is amended to require non-latex gloves if gloves are used during diapering and to remove unnecessary requirements. OAC 5101:2-12-24 sets requirements for swimming and water safety and is amended to make clarifying edits.

As part of early stakeholder outreach, the proposed rules were discussed during meetings of the Child Care Advisory Council and made available during a public clearance period. Stakeholder suggestions were implemented in the rule regarding reporting child expulsion. No stakeholder comments were received during the CSI public comment period.

The business community impacted by these rules includes approximately 3,892 child care centers operating in Ohio. The adverse impacts created by the rules include the cost of maintaining a facility layout that complies with space requirements, obtaining necessary materials and equipment, and ensuring staffing meets child ratios. These costs, for items like bedding or play equipment, vary depending on the size and child population of the center. ODJFS states that the rules are necessary to ensure the safety of children in child care centers.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review