



June 22, 2023

Child Care Day Camp Manual Transmittal Letter No. 17

TO: All Child Care Day Camp Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: Child Day Camp Rule 5101:2-18-07 Five-Year Review

Background:

The Ohio Department of Job and Family Services (ODJFS) has amended rule 5101:2-18-07 contained in Chapter 5101:2-18 of the Ohio Administrative Code (OAC) due to the five-year review. The rule has been amended to clarify language and to remove revision dates from forms.

This rule is effective on July 1, 2023.

5101:2-18-07 "Background check requirements for an approved child day camp" has been amended with the following changes:

- Clarified that BCI and FBI results must be sent to ODJFS
- Removed revision dates from forms
- Added "approved child day camp" and "child care" to paragraph (J) for clarification

Appendix A to rule 5101:2-18-07 has no changes.

Questions:

Please contact the Child Care Policy Help Desk at childcarepolicy@jfs.ohio.gov or 1-877-302-2347, option 4, if you have any questions.

5101:2-18-07 **Background check requirements for an approved child day camp.**

(A) What records are included in a background check?

- (1) Bureau of criminal investigation (BCI) records pursuant to section 5104.013 of the Revised Code.
- (2) Federal bureau of investigation (FBI) records pursuant to section 5104.013 of the Revised Code.
- (3) National sex offender registry.
- (4) State sex offender registry.
- (5) Statewide automated child welfare information system (SACWIS) records.

(B) Who shall have a background check?

- (1) An owner and administrator of an approved child day camp or applicant to be approved as a child day camp.
- (2) An employee of an approved child day camp as defined in rule 5101:2-18-01 of the Administrative Code.
- (3) A child day camp staff member as defined in rule 5101:2-18-01 of the Administrative Code.

(C) When is a background check required?

- (1) At initial application for approval of a child day camp.
- (2) Prior to the first day of employment for employees and child day camp staff members.
- (3) Every five years from the date of the most recent BCI records check.

(D) How is a background check obtained?

The individual shall:

- (1) Create a profile in the Ohio professional registry (OPR) at <https://ocrra.org>.
- (2) Submit fingerprints electronically according to the process established by BCI, and have the BCI and FBI results sent directly to the Ohio department of job and family services (ODJFS). Information on how to obtain a background check

can be found at <https://www.ohioattorneygeneral.gov/Business/Services-for-Business/WebCheck>.

- (3) Complete and submit the request for a background check for child care in the OPR.
- (E) What if an individual previously resided in a state other than Ohio?
- (1) ODJFS will contact any states in which the individual resided in the previous five years to request the information required in paragraph (A) ~~to~~ of this rule.
 - (2) Any information received from other states will be reviewed and considered by ODJFS as part of the background check review pursuant to paragraph (G) of this rule.
- (F) What happens if an individual does not complete the full background check determination process?
- (1) If the individual completes only the requirements in paragraph (D)(2) of this rule or only the requirements in paragraph (D)(3) of this rule and does not submit the other component within forty-five days, the background check process will end and a determination of eligibility will not be made.
 - (2) ODJFS will notify the individual and the program that the background check determination process has ended.
 - (3) The individual will need to complete the requirements of paragraphs (D)(2) and (D)(3) of this rule to restart the background check determination process in the future.
- (G) What makes an individual ineligible to own or be employed by an approved day camp?
- (1) A conviction or guilty plea to an offense listed in division (A)(5) of section 109.572 of the Revised Code, unless the individual meets the rehabilitation criteria in appendix A to this rule.
 - (a) Section 109.572 of the Revised Code requires that this rule applies to records of convictions that have been sealed pursuant to section 2953.32 of the Revised Code.
 - (b) A conviction or a plea of guilty to an offense listed in division (A)(5) of section 109.572 of the Revised Code is not prohibitive if the individual has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code or the conviction or guilty plea has been set aside pursuant to law. For purposes of this rule, "unconditional

pardon" includes a conditional pardon with respect to which all conditions have been performed or have transpired.

- (2) Being registered or required to be registered on the national or state sex offender registry or repository.
 - (3) The individual is identified in SACWIS as the perpetrator for a substantiated finding of child abuse or neglect in the previous ten years from the date the request for background check was submitted or the individual has had a child removed from their home in the previous ten years pursuant to section 2151.353 of the Revised Code due to a court determination of abuse or neglect caused by that specific individual.
- (H) What happens after the individual requests the background check in the OPR and submits fingerprints through a webcheck location?
- (1) The approved child day camp and individual will receive notification of preliminary approval generated from the OPR.
 - (2) The approved child day camp will receive the JFS 01176 "Program Notification of Background Check Review for Child Care" (~~rev. 9/2019~~) from ODJFS and shall keep it on file if not available in the OPR.
 - (a) For those individuals not eligible for employment, the approved child day camp shall not hire the individual or shall terminate them from employment immediately upon receipt of the JFS 01176.
 - (b) Until preliminary approval is received from ODJFS, an administrator, employee or child day camp staff member hired on or after the effective date of this rule shall not engage in any assigned duties or be near children.
 - (c) A child day camp staff member with preliminary approval but not a JFS 01176 on file at the child day camp or in the OPR shall not be left alone with children and shall be supervised at all times by another child day camp staff member with a JFS 01176 on file or in the OPR.
 - (d) Only child day camp staff members with a JFS 01176 on file at the child day camp or in the OPR may be left alone with children.
 - (3) The individual will receive the JFS 01177 "Individual Notification of Background Check Review for Child Care" (~~rev. 9/2019~~) from ODJFS.

- (a) If the individual believes the information received is not accurate, the individual may directly contact the agency that contributed the questioned information.
- (b) If the individual disagrees with the employment eligibility decision made by ODJFS, a JFS 01178 "Request for Review of Background Check Decision for Child Care" (~~10/2017~~) shall be completed to request a review of the decision. The JFS 01178 shall be submitted within fourteen business days from the date on the JFS 01177.

(I) What happens after an individual submits a JFS 01178 to ODJFS?

If an individual requests a review of a background check decision pursuant to paragraph (H)(3)(b) of this rule:

- (1) The program shall not allow the individual to be on-site at the program during the review by ODJFS.
- (2) If the individual is determined to be eligible for employment, the program may allow the individual to be employed and shall keep the updated JFS 01176 on file pursuant to paragraph (H)(2) of this rule.

(J) What are the background check requirements if an individual becomes employed at another approved child day camp or licensed child care program?

- (1) Only the request for a background check for child care in the OPR is required if the individual meets all of the following:
 - (a) The individual has a current background check determination by ODJFS completed in the previous five years pursuant to this rule.
 - (b) The individual has been employed by an approved child day camp, licensed child care center, licensed type A home, licensed type B home, a preschool or school-age program approved to provide publicly funded child care or certified as an in-home aide or was a resident of a licensed type A home or licensed type B home in the previous one hundred eighty consecutive days.
- (2) Upon receipt of the request, ODJFS will provide the JFS 01176 based on the existing background check determination on file to the new employer.

Effective: 7/1/2023
Five Year Review (FYR) Dates: 4/11/2023 and 07/01/2028

CERTIFIED ELECTRONICALLY

Certification

06/21/2023

Date

Promulgated Under: 119.03
Statutory Authority: 5104.21, 5104.22
Rule Amplifies: 5104.21, 5104.22
Prior Effective Dates: 04/16/2018, 09/29/2019

An applicant, employee, child day camp staff member, owner or administrator of an approved child day camp who has a prohibited offense shall meet the following standards for rehabilitation:

1. If the offense was a misdemeanor:
 - a. At least three years have elapsed from the date the individual was fully discharged for imprisonment, probation or parole, unless the records were sealed.
 - b. All fines imposed by the court as part of the sentence have been paid in full.
2. If the offense was a felony:
 - a. At least 10 years have elapsed since the individual was fully discharged from imprisonment, probation or parole, unless the records were sealed.
 - b. All fines imposed by the court as part of the sentence have been paid in full.
 - c. The felony was not one of the following:

R.C. 2903.01 – Aggravated Murder
R.C. 2903.02 – Murder
R.C. 2903.11 – Felonious Assault
R.C. 2903.12 – Aggravated Assault
R.C. 2903.13 – Assault
R.C. 2905.01 – Kidnapping
R.C. 2907.02 – Rape
R.C. 2907.03 – Sexual Battery
R.C. 2907.12 – Felonious Sexual Penetration (as this former section of law existed)
R.C. 2907.321 – Pandering Obscenity Involving a Minor
R.C. 2907.322 – Pandering Sexually Oriented Matter Involving a Minor
R.C. 2907.323 – Illegal Use of a Minor in Nudity-Oriented Material of Performance
R.C. 2909.02 – Aggravated Arson
R.C. 2909.03 – Arson
R.C. 2919.22 – Endangering Children
R.C. 2919.25 – Domestic Violence

Or an existing or former offense of any municipal corporation, this state, or any other state, or the United States that is substantially equivalent to any of these offenses.

3. The victim of the offense (misdemeanor or felony) was not one of the following:
 - a. Under 18 years of age.
 - b. Functionally impaired as defined in section 2903.10 of the Revised Code.
 - c. Intellectually disabled or developmentally disabled as defined in section 5123.01 of the Revised Code.
 - d. Mentally ill as defined in section 5122.01 of the Revised Code.
 - e. 60 years of age or older.
4. The following additional factors shall also be considered:
 - a. The age of the individual at the time of the offense.
 - b. The nature and seriousness of the offense.
 - c. The time elapsed since discharge from imprisonment, probation or parole.
 - d. Whether the individual is a repeat offender.