



**Child Care Center Manual Transmittal Letter No. 36
Child Care Day Camp Manual Transmittal Letter No. 18
Family Child Care Manual Transmittal No. 26**

TO: All Child Care Center Manual Holders
All Child Care Day Camp Manual Holders
All Family Child Care Manual Holders

FROM: Matt Damschroder, Director

SUBJECT: Updates to the Prohibitive Convictions for Child Care Centers, Child Care Day Camps, Family Child Care Home Providers, and Ohio Department of Education Licensed Preschool and School-age Child Care Programs Providing Publicly Funded Child Care (PFCC)

Background

The Office of Family Assistance completed a five-year review of child care center and family child care licensing rules 5101:2-12-09 and 5101:2-13-09. Rule 5101:2-18-07 was revised to align with the other chapters.

Rules 5101:2-12-09 and 5101:2-13-09 were revised to remove revision dates from JFS form citations as the most recent version of all Ohio Department of Job and Family Services (ODJFS) forms can be accessed through [Forms Central](#).

Per Sections 109.572 and 5104.013 of the Ohio Revised Code (ORC), anyone who has been convicted of or plead guilty to certain offenses are prohibited from owning, operating, or working in a child care business. Appendix A to the rules was revised to add prohibitive offenses already existing in ORC. If an individual has been convicted of or plead guilty to one of the offenses below, they are not eligible to own or work in a child care program.

Individuals are not required to submit a request for new background checks as result of this letter.

Remember, a new request for background checks should be submitted only if the following situations apply:

- The current background checks are expired on the JFS 01176 "Program Notification of Background Check Review for Child Care" and JFS 01177 "Individual Notification of Background Check Review for Child Care"
- The background check is no longer valid due to an employment gap of more than 180 days.

- The individual changes employment or plans to reside in another licensed child care program but has an unexpired background check determination by ODJFS. (New fingerprints are not required).

ODJFS will no longer allow rehabilitation for the prohibitive offenses being added to Appendix A for all background checks submitted on or after the rule's effective date January 27, 2024.

Changes to Rules 5101:2-12-09 and 5101:2-13-09

Removed revision dates from the following forms:

- JFS 01176 "Program Notification of Background Check Review for Child Care"
- JFS 01177 "Individual Notification of Background Check Review for Child Care"
- JFS 01178 "Request for Review of Background Check Decision for Child Care"

Changes to Appendix A – Standards for Rehabilitation for Rules 5101:2-12-09, 5101:2-13-09, and 5101:2-18-07

Relocated and revised the following statement in 2(c):

- "The felony was not 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, or that would meet the ineligibility requirements under 45 CFR Section 98.43 or one of the following"
- Added the following convictions that currently exist in ORC to the prohibitive offenses list in OAC to align
 - R.C. 2903.03 – Voluntary manslaughter
 - R.C. 2903.04 – Involuntary manslaughter
 - R.C. 2905.32 – Trafficking in persons
 - R.C. 2907.04 – Unlawful sexual conduct with minor
 - R.C. 2907.05 – Gross sexual imposition
 - R.C. 2907.19 – Commercial sexual exploitation of a minor
 - R.C. 2907.21 – Compelling prostitution
 - R.C. 2907.31 – Disseminating matter harmful to juveniles
 - R.C. 2911.01 – Aggravated robbery
 - R.C. 2911.02 – Robbery
 - R.C. 2911.11 – Aggravated burglary
 - R.C. 2911.12 – Burglary
 - R.C. 2919.23 – Interference with custody
 - R.C. 2919.24 – Contributing to unruliness or delinquency of a child
 - R.C. 2923.13 – Having weapons while under disability
 - R.C. 2923.161 – Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function

Questions

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

5101:2-12-09

Background check requirements for a licensed child care center.**(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 a licensed child care center or applicants to be licensed as a child care center.
- (2) An employee in a licensed child care center as defined in rule 5101:2-12-01 of the Administrative Code.
- (3) A child care staff member in a licensed child care center as defined in rule 5101:2-12-01 of the Administrative Code, including substitutes.

(C) When is a background check required?

- (1) At application for a child care center license.
- (2) Prior to the first day of employment for employees and child care 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).
- (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) 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 in a center?
- (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 of 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 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 person.
- (H) What happens after the individual requests the background check in the OPR and submits fingerprints through a webcheck location?
- (1) The program and individual will receive notification of preliminary approval generated from the OPR.
 - (2) The center 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 center 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, child care staff member or employee hired on or after the effective date of this rule cannot engage in any assigned duties or be near children.
 - (c) A child care staff member with preliminary approval but not a JFS 01176 on file at the center or in the OPR shall not be left alone with children and shall be supervised at all times by another child care staff member with a JFS 01176 on file or in the OPR.
 - (d) Only child care staff members with a JFS 01176 on file at the center 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 licensed 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 a licensed child care center, licensed type A home, licensed type B home, approved day camp, 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 to the new employer.

Effective: 1/27/2024
Five Year Review (FYR) Dates: 11/8/2023 and 01/27/2029

CERTIFIED ELECTRONICALLY

Certification

01/17/2024

Date

Promulgated Under: 119.03
Statutory Authority: 5104.013
Rule Amplifies: 5104.013, 5104.03
Prior Effective Dates: 03/01/1981, 09/01/1986, 01/02/1992 (Emer.),
04/01/1992, 07/01/2003, 09/01/2005, 01/01/2007,
09/01/2008, 07/01/2010, 09/29/2011, 11/01/2015,
12/31/2016, 10/29/2017, 09/29/2019

Appendix A to Rule 5101:2-12-09

Standards for Rehabilitation

An applicant, employee, child care staff member, owner or administrator of a licensed child care center 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 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, or that would meet the ineligibility requirements under 45 CFR Section 98.43 or one of the following:

R.C. 2903.01 – Aggravated murder

R.C. 2903.02 – Murder

R.C. 2903.03 – Voluntary manslaughter

R.C. 2903.04 – Involuntary manslaughter

R.C. 2903.11 – Felonious assault

R.C. 2903.12 – Aggravated assault

R.C. 2903.13 – Assault

R.C. 2905.01 – Kidnapping

R.C. 2905.32 – Trafficking in persons

R.C. 2907.02 – Rape

R.C. 2907.03 – Sexual battery

R.C. 2907.04 – Unlawful sexual conduct with minor

R.C. 2907.05 – Gross sexual imposition

R.C. 2907.12 – Felonious sexual penetration (as this former section of law existed)

R.C. 2907.19 – Commercial sexual exploitation of a minor

R.C. 2907.21 – Compelling prostitution

R.C. 2907.31 – Disseminating matter harmful to juveniles

R.C. 2907.321 – Pandering obscenity involving a minor or impaired person

R.C. 2907.322 – Pandering sexually oriented matter involving a minor or impaired person

R.C. 2907.323 – Illegal use of a minor or impaired person in nudity-oriented material or performance

R.C. 2909.02 – Aggravated arson

R.C. 2909.03 – Arson

R.C. 2911.01 – Aggravated robbery

R.C. 2911.02 – Robbery

R.C. 2911.11 – Aggravated burglary

R.C. 2911.12 – Burglary

R.C. 2919.22 – Endangering children

R.C. 2919.23 – Interference with custody
R.C. 2919.24 – Contributing to unruliness or delinquency of a child
R.C. 2919.25 – Domestic violence
R.C. 2923.13 – Having weapons while under disability
R.C. 2923.161 – Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function

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 person 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 person is a repeat offender.

5101:2-13-09

Background check requirements for a licensed family child care provider.

(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) Licensed family child care providers and applicants to be licensed family child care providers.
- (2) Adults (age eighteen and older) residing in the home of the family child care provider or applicant.
- (3) Employee of a family child care provider or applicant as defined in rule 5101:2-13-01 of the Administrative Code.
- (4) Child care staff member of the family child care provider or applicant as defined in rule 5101:2-13-01 of the Administrative Code, including substitutes.

(C) When is a background check required?

- (1) At application for a family child care license.
- (2) Within ten business days after a resident of the home turns eighteen years old.
- (3) Within ten business days of an adult moving into the home.
- (4) Prior to the first day of employment for the employee or child care staff member.
- (5) 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).
 - (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) 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) to restart the background check determination process in the future.
- (G) What makes an individual ineligible to own, reside or be employed in a licensed family child care home?
- (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 of 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 the person.
- (H) What happens after the individual requests the background check and submits fingerprints through a webcheck location?
- (1) The provider, county agency, and individual will receive a notification of preliminary approval generated from the OPR.
 - (2) The provider and county agency 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 provider shall not hire the individual or shall terminate them from employment immediately upon receipt of the JFS 01176.
 - (b) For those individuals not eligible for residence in a licensed family child care home, the resident shall immediately cease living in the family child care home upon receipt of the JFS 01176.
 - (c) Until preliminary approval is received from ODJFS, an employee or child care staff member hired on or after the effective date of this rule shall not engage in any assigned duties or be near children.
 - (d) A child care staff member with preliminary approval but not a JFS 01176 on file at the home or in the OPR shall not be left alone with children and shall be supervised at all times by the provider or another child care staff member with a JFS 01176 on file at the home or in the OPR.

- (e) Only child care staff members with a JFS 01176 on file at the home 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/residency 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) to this rule:

- (1) The program shall not allow the individual to be on-site at the program or reside in the home during the review by ODJFS.
 - (2) If the individual is determined to be eligible for employment or residence, the program may allow the individual to be employed or reside in the home 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 licensed 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 a licensed child care center, licensed type A home, licensed type B home, approved day camp, 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 to the new employer.

Effective: 1/27/2024
Five Year Review (FYR) Dates: 11/8/2023 and 01/27/2029

CERTIFIED ELECTRONICALLY

Certification

01/17/2024

Date

Promulgated Under: 119.03
Statutory Authority: 5104.013
Rule Amplifies: 5104.013, 5104.03
Prior Effective Dates: 09/05/1986, 07/01/1995, 10/01/1997 (Emer.),
12/30/1997, 04/01/2003, 07/01/2003, 09/01/2005,
01/01/2007, 08/14/2008, 03/01/2009, 07/01/2010,
09/29/2011, 01/01/2014, 11/01/2015, 12/31/2016,
10/29/2017, 09/29/2019

Appendix A to Rule 5101:2-13-09

Standards for Rehabilitation

An applicant, employee, child care staff member, resident, owner or administrator of a licensed family care home 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 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, or that would meet the ineligibility requirements under 45 CFR Section 98.43 or one of the following:

- R.C. 2903.01 – Aggravated murder
- R.C. 2903.02 – Murder
- R.C. 2903.03 – Voluntary manslaughter
- R.C. 2903.04 – Involuntary manslaughter
- R.C. 2903.11 – Felonious assault
- R.C. 2903.12 – Aggravated assault
- R.C. 2903.13 – Assault
- R.C. 2905.01 – Kidnapping
- R.C. 2905.32 – Trafficking in persons
- R.C. 2907.02 – Rape
- R.C. 2907.03 – Sexual battery
- R.C. 2907.04 – Unlawful sexual conduct with minor
- R.C. 2907.05 – Gross sexual imposition
- R.C. 2907.12 – Felonious sexual penetration (as this former section of law existed)
- R.C. 2907.19 – Commercial sexual exploitation of a minor
- R.C. 2907.21 – Compelling prostitution
- R.C. 2907.31 – Disseminating matter harmful to juveniles
- R.C. 2907.321 – Pandering obscenity involving a minor or impaired person
- R.C. 2907.322 – Pandering sexually oriented matter involving a minor or impaired person
- R.C. 2907.323 – Illegal use of a minor or impaired person in nudity-oriented material or performance
- R.C. 2909.02 – Aggravated arson
- R.C. 2909.03 – Arson
- R.C. 2911.01 – Aggravated robbery
- R.C. 2911.02 – Robbery
- R.C. 2911.11 – Aggravated burglary
- R.C. 2911.12 – Burglary
- R.C. 2919.22 – Endangering children

R.C. 2919.23 – Interference with custody

R.C. 2919.24 – Contributing to unruliness or delinquency of a child

R.C. 2919.25 – Domestic violence

R.C. 2923.13 – Having weapons while under disability

R.C. 2923.161 – Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function

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 person 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 person is a repeat offender.

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://occrpa.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) 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" 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" 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" 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: 1/27/2024

Five Year Review (FYR) Dates: 7/1/2028

CERTIFIED ELECTRONICALLY

Certification

01/17/2024

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, 07/01/2023

Appendix A to Rule 5101:2-18-07

Standards for Rehabilitation

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 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, or that would meet the ineligibility requirements under 45 CFR Section 98.43 or one of the following:

- R.C. 2903.01 – Aggravated murder
- R.C. 2903.02 – Murder
- R.C. 2903.03 – Voluntary manslaughter
- R.C. 2903.04 – Involuntary manslaughter
- R.C. 2903.11 – Felonious assault
- R.C. 2903.12 – Aggravated assault
- R.C. 2903.13 – Assault
- R.C. 2905.01 – Kidnapping
- R.C. 2905.32 – Trafficking in persons
- R.C. 2907.02 – Rape
- R.C. 2907.03 – Sexual battery
- R.C. 2907.04 – Unlawful sexual conduct with minor
- R.C. 2907.05 – Gross sexual imposition
- R.C. 2907.12 – Felonious sexual penetration (as this former section of law existed)
- R.C. 2907.19 – Commercial sexual exploitation of a minor
- R.C. 2907.21 – Compelling prostitution
- R.C. 2907.31 – Disseminating matter harmful to juveniles
- R.C. 2907.321 – Pandering obscenity involving a minor or impaired person
- R.C. 2907.322 – Pandering sexually oriented matter involving a minor or impaired person
- R.C. 2907.323 – Illegal use of a minor or impaired person in nudity-oriented material or performance
- R.C. 2909.02 – Aggravated arson
- R.C. 2909.03 – Arson
- R.C. 2911.01 – Aggravated robbery
- R.C. 2911.02 – Robbery
- R.C. 2911.11 – Aggravated burglary
- R.C. 2911.12 – Burglary
- R.C. 2919.22 – Endangering children

R.C. 2919.23 – Interference with custody

R.C. 2919.24 – Contributing to unruliness or delinquency of a child

R.C. 2919.25 – Domestic violence

R.C. 2923.13 – Having weapons while under disability

R.C. 2923.161 – Improperly discharging firearm at or into a habitation, in a school safety zone or with intent to cause harm or panic to persons in a school building or at a school function

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.