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136th General Assembly  
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Sub. H. B. No. 647

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To amend sections 121.44, 5104.01, 5104.30, 1  
5104.32, 5104.34, 5104.38, and 5104.53 and to 2  
enact sections 5104.321 and 5104.45 of the 3  
Revised Code to revise the law governing the 4  
publicly funded child care program. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 121.44, 5104.01, 5104.30, 6  
5104.32, 5104.34, 5104.38, and 5104.53 be amended and sections 7  
5104.321 and 5104.45 of the Revised Code be enacted to read as 8  
follows: 9

**Sec. 121.44.** (A) Except as otherwise provided in this 10  
section, the report of any investigation conducted by the 11  
inspector general or any deputy inspector general is a public 12  
record, open to public inspection. The inspector general, or a 13  
deputy inspector general, with the written approval of the 14  
inspector general, may designate all or part of a report as 15  
confidential if doing so preserves the confidentiality of 16  
matters made confidential by law or appears reasonably necessary 17  
to protect the safety of a witness or to avoid disclosure of 18  
investigative techniques that, if disclosed, would enable 19



persons who have been or are committing wrongful acts or 20  
omissions to avoid detection. Confidential material shall be 21  
marked clearly as being confidential. 22

(B) The inspector general, free of charge, shall provide a 23  
copy of each report of an investigation, including wholly and 24  
partially confidential reports, to the governor. In addition, 25  
the inspector general, free of charge, shall provide a copy of 26  
the report of any investigation, including wholly and partially 27  
confidential reports, to a prosecuting authority who may 28  
undertake criminal prosecution of a wrongful act or omission 29  
described in the report, an ethics commission to which a 30  
wrongful act or omission described in the report was reported in 31  
accordance with section 102.06 of the Revised Code, and a 32  
licensing agency, appointing authority, or public or private 33  
employer that may take disciplinary action with regard to a 34  
wrongful act or omission described in the report. The inspector 35  
general shall not provide a copy of any confidential part of the 36  
report of an investigation to a person as required by this 37  
division if that person allegedly committed the wrongful act or 38  
omission described in the report. The governor, a prosecuting 39  
authority, ethics commission, licensing agency, appointing 40  
authority, or public or private employer that receives a report, 41  
all or part of which is designated as confidential, shall take 42  
all appropriate measures necessary to preserve the 43  
confidentiality of the report. 44

(C) The inspector general shall provide a copy of any 45  
nonconfidential report, or the nonconfidential parts of any 46  
report, to any other person who requests the copy and pays a fee 47  
prescribed by the inspector general. The fee shall not exceed 48  
the cost of reproducing and delivering the report. 49

(D) Records of an investigation conducted by the inspector 50  
general or any deputy inspector general are not public records 51  
for purposes of section 149.43 of the Revised Code until a 52  
report of the investigation is released. 53

**Sec. 5104.01.** As used in this chapter: 54

(A) "Administrator" means the person responsible for the 55  
daily operation of a center, type A home, or approved child day 56  
camp. The administrator and the owner may be the same person. 57

(B) "Approved child day camp" means a child day camp 58  
approved pursuant to section 5104.22 of the Revised Code. 59

(C) "Authorized representative" means an individual 60  
employed by a center, type A home, or approved child day camp 61  
that is owned by a person other than an individual and who is 62  
authorized by the owner to do all of the following: 63

(1) Communicate on the owner's behalf; 64

(2) Submit on the owner's behalf applications for 65  
licensure or approval; 66

(3) Enter into on the owner's behalf provider agreements 67  
for publicly funded child care. 68

(D) "Border state child care provider" means a child care 69  
provider that is located in a state bordering Ohio and that is 70  
licensed, certified, or otherwise approved by that state to 71  
provide child care funded by the child care block grant act. 72

(E) "Career pathways model" means an alternative pathway 73  
to meeting the requirements to be a child care staff member or 74  
administrator that does both of the following: 75

(1) Uses a framework approved by the director of children 76

and youth to document formal education, training, experience, 77  
and specialized credentials and certifications; 78

(2) Allows the child care staff member or administrator to 79  
achieve a designation as an early childhood professional level 80  
one, two, three, four, five, or six. 81

(F) "Caretaker parent" means the father or mother of a 82  
child whose presence in the home is needed as the caretaker of 83  
the child, a person who has legal custody of a child and whose 84  
presence in the home is needed as the caretaker of the child, a 85  
guardian of a child whose presence in the home is needed as the 86  
caretaker of the child, and any other person who stands in loco 87  
parentis with respect to the child and whose presence in the 88  
home is needed as the caretaker of the child. 89

(G) "Chartered nonpublic school" means a school that meets 90  
standards for nonpublic schools prescribed by the director of 91  
education and workforce for nonpublic schools pursuant to 92  
section 3301.07 of the Revised Code. 93

(H) "Child" includes an infant, toddler, preschool-age 94  
child, or school-age child. 95

(I) "Child care block grant act" means the "Child Care and 96  
Development Block Grant Act of 2014," 128 Stat. 1971 (2014), 42 97  
U.S.C. 9858, as amended. 98

(J) "Child day camp" means a program in which only school- 99  
age children attend or participate, that operates for no more 100  
than twelve hours per day and no more than fifteen weeks during 101  
the summer. For purposes of this division, the maximum twelve 102  
hours of operation time does not include transportation time 103  
from a child's home to a child day camp and from a child day 104  
camp to a child's home. 105

(K) "Child care" means all of the following:	106
(1) Administering to the needs of infants, toddlers,	107
preschool-age children, and school-age children outside of	108
school hours;	109
(2) By persons other than their parents, guardians, or	110
custodians;	111
(3) For part of the twenty-four-hour day;	112
(4) In a place other than a child's own home, except that	113
an in-home aide provides child care in the child's own home;	114
(5) By a provider required by this chapter to be licensed	115
or approved by the department of children and youth, certified	116
by a county department of job and family services, or under	117
contract with the department to provide publicly funded child	118
care as described in section 5104.32 of the Revised Code.	119
(L) "Child care center" and "center" mean any place that	120
is not the permanent residence of the licensee or administrator	121
in which child care or publicly funded child care is provided	122
for seven or more children at one time. "Child care center" and	123
"center" do not include any of the following:	124
(1) A place located in and operated by a hospital, as	125
defined in section 3727.01 of the Revised Code, in which the	126
needs of children are administered to, if all the children whose	127
needs are being administered to are monitored under the on-site	128
supervision of a physician licensed under Chapter 4731. of the	129
Revised Code or a registered nurse licensed under Chapter 4723.	130
of the Revised Code, and the services are provided only for	131
children who, in the opinion of the child's parent, guardian, or	132
custodian, are exhibiting symptoms of a communicable disease or	133
other illness or are injured;	134

(2) A child day camp;	135
(3) A place that provides care, if all of the following apply:	136 137
(a) An organized religious body provides the care;	138
(b) A parent, custodian, or guardian of at least one child receiving care is on the premises and readily accessible at all times;	139 140 141
(c) The care is not provided for more than thirty days a year;	142 143
(d) The care is provided only for preschool-age and school-age children.	144 145
(M) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.	146 147 148 149
(N) "Child care resource and referral services" means all of the following services:	150 151
(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	152 153 154
(2) Provision of individualized consumer education to families seeking child care;	155 156
(3) Provision of timely referrals of available child care providers to families seeking child care;	157 158
(4) Recruitment of child care providers;	159
(5) Assistance in developing, conducting, and disseminating training for child care professionals and	160 161

provision of technical assistance to current and potential child care providers, employers, and the community;	162 163
(6) Collection and analysis of data on the supply of and demand for child care in the community;	164 165
(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;	166 167 168
(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;	169 170 171
(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;	172 173 174
(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of children and youth;	175 176 177 178 179
(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family child care homes.	180 181 182 183
(O) "Child care staff member" means an employee of a child care center, type A family child care home, licensed type B family child care home, or approved child day camp who is primarily responsible for the care and supervision of children. The administrator, authorized representative, or owner may be a child care staff member when not involved in other duties.	184 185 186 187 188 189

(P) "Drop-in child care center," "drop-in center," "drop-in type A family child care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.

(Q) "Early learning and development program" has the same meaning as "licensed child care program."

(R) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child care center, type A family child care home, licensed type B family child care home, or approved child day camp;

(2) Is assigned specific working hours or duties in a child care center, type A family child care home, licensed type B family child care home, or approved child day camp.

(S) "Employer" means a person, firm, institution, organization, or agency that operates a child care center, type A family child care home, licensed type B family child care home, or approved child day camp subject to licensure or approval under this chapter.

(T) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(U) "Fraud against the publicly funded child care program" means an intentional act or omission to deceive for purposes of obtaining or retaining payments under the publicly funded child care program that a provider of publicly funded child care is

<u>not entitled to obtain or retain.</u>	219
<u>(V)</u> "Head start program" means a school-readiness program	220
that satisfies all of the following:	221
(1) Is for children from birth to age five who are from	222
low-income families;	223
(2) Receives funds distributed under the "Improving Head	224
Start for School-Readiness Act of 2007," 42 U.S.C. 9831, as	225
amended;	226
(3) Is licensed as a child care program.	227
<del>(V)</del> <u>(W)</u> "Home education" has the same meaning as in section	228
3321.042 of the Revised Code.	229
<del>(W)</del> <u>(X)</u> "Home education learning pod" means a voluntary	230
association of parents who direct their children's education	231
through home education and includes the following	232
characteristics:	233
(1) The parents choose to group their children together in	234
a home or other location at various times, which may include	235
hours when home education is not provided.	236
(2) The pod includes only the parents' children who are	237
receiving home education, except that it also may include	238
siblings of those children, or other children who are under the	239
care of the parents, regardless of age.	240
(3) At least one parent of any of the children	241
participating in the pod must be on the premises while the pod	242
is meeting.	243
<del>(X)</del> <u>(Y)</u> "Homeless child care" means child care provided to	244
a child who satisfies any of the following:	245

(1) Is homeless as defined in 42 U.S.C. 11302;	246
(2) Is a homeless child or youth as defined in 42 U.S.C. 11434a;	247 248
(3) Resides temporarily with a caretaker in a facility providing emergency shelter for homeless families or is determined by a county department of job and family services to be homeless.	249 250 251 252
<del>(Y)</del> <u>(Z)</u> "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.	253 254 255
<del>(Z)</del> <u>(AA)</u> "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child care center's, type A family child care home's, or licensed type B family child care home's compliance with licensing requirements.	256 257 258 259 260 261 262
<del>(AA)</del> <u>(BB)</u> "Infant" means a child who is less than eighteen months of age.	263 264
<del>(BB)</del> <u>(CC)</u> "In-home aide" means a person who does not reside with the child but provides care in the child's home and is certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this chapter and any rules adopted under it.	265 266 267 268 269 270
<del>(CC)</del> <u>(DD)</u> "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child care centers, type A family child care homes, and licensed type B family child care homes in which each	271 272 273 274

licensing requirement is assigned a weight indicative of the 275  
relative importance of the requirement to the health, growth, 276  
and safety of the children that is used to develop an indicator 277  
checklist. 278

~~(DD)~~(EE) "License capacity" means the maximum number in 279  
each age category of children who may be cared for in a child 280  
care center, type A family child care home, or licensed type B 281  
family child care home at one time as determined by the director 282  
of children and youth considering building occupancy limits 283  
established by the department of commerce, amount of available 284  
indoor floor space and outdoor play space, and amount of 285  
available play equipment, materials, and supplies. 286

~~(EE)~~(FF) "Licensed child care program" means any of the 287  
following: 288

(1) A child care center licensed by the department of 289  
children and youth pursuant to this chapter; 290

(2) A type A family child care home or type B family child 291  
care home licensed by the department of children and youth 292  
pursuant to this chapter; 293

(3) A licensed preschool program or licensed school child 294  
program. 295

~~(FF)~~(GG) "Licensed preschool program" or "licensed school 296  
child program" means a preschool program or school child 297  
program, as defined in section 3301.52 of the Revised Code, that 298  
is licensed by the department of children and youth pursuant to 299  
sections 3301.52 to 3301.59 of the Revised Code. 300

~~(GG)~~(HH) "Licensed type B family child care home" and 301  
"licensed type B home" mean a type B family child care home for 302  
which there is a valid license issued by the director of 303

children and youth pursuant to section 5104.03 of the Revised Code. 304  
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~~(HH)~~(II) "Licensee" means the owner of a child care center, type A family child care home, or type B family child care home that is licensed pursuant to this chapter and who is responsible for ensuring compliance with this chapter and rules adopted pursuant to this chapter. 306  
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~~(II)~~(JJ) "Misuse of public funds" means the improper billing, expenditure, receipt, or retention of publicly funded child care payments in violation of this chapter or rules adopted under it. 311  
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(KK) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp. 315  
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~~(JJ)~~(LL) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity. 317  
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~~(KK)~~(MM) "Parent cooperative child care center," "parent cooperative center," "parent cooperative type A family child care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation. 319  
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~~(LL)~~(NN) "Part-time child care center," "part-time 332

center," "part-time type A family child care home," and "part- 333  
time type A home" mean a center or type A home that provides 334  
child care or publicly funded child care for not more than four 335  
hours a day for any child or not more than fifteen consecutive 336  
weeks per year, regardless of the number of hours per day. 337

~~(MM)~~ (OO) "Place of worship" means a building where 338  
activities of an organized religious group are conducted and 339  
includes the grounds and any other buildings on the grounds used 340  
for such activities. 341

~~(NN)~~ (PP) "Preschool-age child" means a child who is three 342  
years old or older but is not a school-age child. 343

~~(OO)~~ (QQ) "Protective child care" means publicly funded 344  
child care for the direct care and protection of a child to whom 345  
all of the following apply: 346

(1) A case plan has been prepared and maintained for the 347  
child pursuant to section 2151.412 of the Revised Code. 348

(2) The case plan indicates a need for protective care. 349

(3) The child resides with a parent, stepparent, guardian, 350  
or another person who stands in loco parentis as defined in 351  
rules adopted under section 5104.38 of the Revised Code. 352

~~(PP)~~ (RR) "Publicly funded child care" means administering 353  
to the needs of infants, toddlers, preschool-age children, and 354  
school-age children under age thirteen during any part of the 355  
twenty-four-hour day by persons other than their caretaker 356  
parents for remuneration wholly or in part with federal or state 357  
funds, including funds available under the child care block 358  
grant act, Title IV-A, and Title XX, distributed by the 359  
department of children and youth. 360

~~(QQ)~~ (SS) "Religious activities" means any of the 361  
following: worship or other religious services; religious 362  
instruction; Sunday school classes or other religious classes 363  
conducted during or prior to worship or other religious 364  
services; youth or adult fellowship activities; choir or other 365  
musical group practices or programs; meals; festivals; or 366  
meetings conducted by an organized religious group. 367

~~(RR)~~ (TT) "School-age child" means a child who is enrolled 368  
in or is eligible to be enrolled in a grade of kindergarten or 369  
above but is less than fifteen years old or, in the case of a 370  
child who is receiving special needs child care, is less than 371  
eighteen years old. 372

~~(SS)~~ (UU) "Serious risk noncompliance" means a licensure or 373  
certification rule violation that leads to a great risk of harm 374  
to, or death of, a child, and is observable, not inferable. 375

~~(TT)~~ (VV) "Special needs child care" means child care 376  
provided to a child who is less than eighteen years of age and 377  
either has one or more chronic health conditions or does not 378  
meet age appropriate expectations in one or more areas of 379  
development, including social, emotional, cognitive, 380  
communicative, perceptual, motor, physical, and behavioral 381  
development and that may include on a regular basis such 382  
services, adaptations, modifications, or adjustments needed to 383  
assist in the child's function or development. 384

~~(UU)~~ (WW) "Title IV-A" means Title IV-A of the "Social 385  
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 386

~~(VV)~~ (XX) "Title XX" means Title XX of the "Social Security 387  
Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 388

~~(WW)~~ (YY) "Toddler" means a child who is at least eighteen 389

months of age but less than three years of age. 390

~~(XX)~~ (ZZ) "Type A family child care home" and "type A home" 391  
mean the permanent residence of the administrator in which child 392  
care or publicly funded child care is provided for eight to 393  
fourteen children at one time or a permanent residence of the 394  
administrator in which child care is provided for four to 395  
fourteen children at one time if four or more children at one 396  
time are under two years of age, provided that if the number of 397  
children under the age of two years at one time is greater than 398  
three or the total number of children at one time is greater 399  
than seven, an additional adult shall be present. In counting 400  
children for the purposes of this division, any children under 401  
six years of age who are related to a licensee, administrator, 402  
or employee and who are on the premises of the type A home shall 403  
be counted. "Type A family child care home" and "type A home" do 404  
not include any child day camp. 405

~~(YY)~~ (AAA) "Type B family child care home" and "type B 406  
home" mean a permanent residence of the provider in which care 407  
is provided for one to seven children at one time and in which 408  
no more than three children are under two years of age at one 409  
time. In counting children for the purposes of this division, 410  
any children under six years of age who are related to the 411  
provider and who are on the premises of the type B home shall be 412  
counted. "Type B family child care home" and "type B home" do 413  
not include any child day camp. 414

**Sec. 5104.30.** (A) The department of children and youth is 415  
hereby designated as the state agency responsible for 416  
administration and coordination of federal and state funding for 417  
publicly funded child care in this state. Publicly funded child 418  
care shall be provided to the following: 419

(1) Recipients of transitional child care as provided	420
under section 5104.34 of the Revised Code;	421
(2) Participants in the Ohio works first program	422
established under Chapter 5107. of the Revised Code;	423
(3) Individuals who would be participating in the Ohio	424
works first program if not for a sanction under section 5107.16	425
of the Revised Code and who continue to participate in a work	426
activity, developmental activity, or alternative work activity	427
pursuant to an assignment under section 5107.42 of the Revised	428
Code;	429
(4) A family receiving publicly funded child care on	430
October 1, 1997, until the family's income reaches one hundred	431
fifty per cent of the federal poverty line;	432
(5) Subject to available funds, other individuals	433
determined eligible in accordance with rules adopted under	434
section 5104.38 of the Revised Code.	435
The department shall apply to the United States department	436
of health and human services for authority to operate a	437
coordinated program for publicly funded child care, if the	438
director of children and youth determines that the application	439
is necessary. For purposes of this section, the department of	440
children and youth may enter into agreements with other state	441
agencies that are involved in regulation or funding of child	442
care. The department shall consider the special needs of migrant	443
workers when it administers and coordinates publicly funded	444
child care and shall develop appropriate procedures for	445
accommodating the needs of migrant workers for publicly funded	446
child care.	447
(B) The department of children and youth shall distribute	448

state and federal funds for publicly funded child care, 449  
including appropriations of state funds for publicly funded 450  
child care and appropriations of federal funds available under 451  
the child care block grant act, Title IV-A, and Title XX. The 452  
department may use any state funds appropriated for publicly 453  
funded child care as the state share required to match any 454  
federal funds appropriated for publicly funded child care. 455

(C) In the use of federal funds available under the child 456  
care block grant act, all of the following apply: 457

(1) The department may use the federal funds to hire staff 458  
to prepare any rules required under this chapter and to 459  
administer and coordinate federal and state funding for publicly 460  
funded child care. 461

(2) Not more than five per cent of the aggregate amount of 462  
the federal funds received for a fiscal year may be expended for 463  
administrative costs. 464

(3) The department shall allocate and use at least four 465  
per cent of the federal funds for the following: 466

(a) Activities designed to provide comprehensive consumer 467  
education to parents and the public; 468

(b) Activities that increase parental choice; 469

(c) Activities, including child care resource and referral 470  
services, designed to improve the quality, and increase the 471  
supply, of child care; 472

(d) Establishing the step up to quality program pursuant 473  
to section 5104.29 of the Revised Code. 474

(4) The department shall ensure that the federal funds 475  
will be used only to supplement, and will not be used to 476

supplant, federal, state, and local funds available on the 477  
effective date of the child care block grant act for publicly 478  
funded child care and related programs. If authorized by rules 479  
adopted by the department pursuant to section 5104.42 of the 480  
Revised Code, county departments of job and family services may 481  
purchase child care from funds obtained through any other means. 482

(D) The department shall encourage the development of 483  
suitable child care throughout the state, especially in areas 484  
with high concentrations of recipients of public assistance and 485  
families with low incomes. The department shall encourage the 486  
development of suitable child care designed to accommodate the 487  
special needs of migrant workers. On request, the department, 488  
through its employees or contracts with state or community child 489  
care resource and referral service organizations, shall provide 490  
consultation to groups and individuals interested in developing 491  
child care. The department of children and youth may enter into 492  
interagency agreements with the department of education and 493  
workforce, the chancellor of higher education, the department of 494  
development, and other state agencies and entities whenever the 495  
cooperative efforts of the other state agencies and entities are 496  
necessary for the department of children and youth to fulfill 497  
its duties and responsibilities under this chapter. 498

The department shall develop and maintain a registry of 499  
persons providing child care. The director shall adopt rules in 500  
accordance with Chapter 119. of the Revised Code establishing 501  
procedures and requirements for the registry's administration. 502

(E) (1) The director shall adopt rules in accordance with 503  
Chapter 119. of the Revised Code establishing both of the 504  
following: 505

(a) Payment rates for providers of publicly funded child 506

care not later than the first day of July in each odd-numbered year; 507  
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(b) A procedure for paying providers of publicly funded child care. 509  
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(2) In establishing payment rates under division (E) (1) (a) of this section, the director shall do all of the following: 511  
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(a) Use the information obtained from the market rate survey developed and conducted in accordance with 45 C.F.R. 98.45; 513  
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(b) Establish an enhanced payment rate for providers who ~~enroll children whose~~ provide child care for caretaker parents who work nontraditional hours; 516  
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(c) With regard to the step up to quality program established pursuant to section 5104.29 of the Revised Code, establish enhanced payment rates for child care providers that participate in the program. 519  
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(3) In establishing payment rates under division (E) (1) (a) of this section, the director may establish different payment rates based on any of the following: 523  
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(a) Geographic location of the provider; 526

(b) Type of care provided; 527

(c) Age of the child served; 528

(d) Special needs of the child served; 529

(e) Whether the expanded hours of service are provided; 530

(f) Whether weekend service is provided; 531

(g) Whether the provider has exceeded the minimum 532

requirements of state statutes and rules governing child care; 533

(h) Any other factors the director considers appropriate. 534

**Sec. 5104.32.** (A) All purchases of publicly funded child 535  
care shall be made under a contract entered into by a licensed 536  
child care center, licensed type A family child care home, 537  
licensed type B family child care home, certified in-home aide, 538  
approved child day camp, licensed preschool program, licensed 539  
school child program, or border state child care provider and 540  
the department of children and youth. All contracts for publicly 541  
funded child care shall be contingent upon the availability of 542  
state and federal funds. The department shall prescribe a 543  
standard form to be used for all contracts for the purchase of 544  
publicly funded child care, regardless of the source of public 545  
funds used to purchase the child care. To the extent permitted 546  
by federal law and notwithstanding any other provision of the 547  
Revised Code that regulates state contracts or contracts 548  
involving the expenditure of state or federal funds, all 549  
contracts for publicly funded child care shall be entered into 550  
in accordance with the provisions of this chapter and are exempt 551  
from any other provision of the Revised Code that regulates 552  
state contracts or contracts involving the expenditure of state 553  
or federal funds. 554

(B) Each contract for publicly funded child care shall 555  
specify at least the following: 556

(1) That the provider of publicly funded child care agrees 557  
to be paid at the rate established pursuant to section 5104.30 558  
of the Revised Code; 559

(2) Whether the county department of job and family 560  
services, the provider, or a child care resource and referral 561

service organization will make eligibility determinations, 562  
whether the provider or a child care resource and referral 563  
service organization will be required to collect information to 564  
be used by the county department to make eligibility 565  
determinations, and the time period within which the provider or 566  
child care resource and referral service organization is 567  
required to complete required eligibility determinations or to 568  
transmit to the county department any information collected for 569  
the purpose of making eligibility determinations; 570

(3) That the provider, other than a border state child 571  
care provider, shall continue to be licensed, approved, or 572  
certified pursuant to this chapter and shall comply with all 573  
standards and other requirements in this chapter and in rules 574  
adopted pursuant to this chapter for maintaining the provider's 575  
license, approval, or certification; 576

(4) That, in the case of a border state child care 577  
provider, the provider shall continue to be licensed, certified, 578  
or otherwise approved by the state in which the provider is 579  
located and shall comply with all standards and other 580  
requirements established by that state for maintaining the 581  
provider's license, certificate, or other approval; 582

(5) Whether the provider will be paid by the department of 583  
children and youth or in some other manner as prescribed by 584  
rules adopted under section 5104.42 of the Revised Code; 585

(6) That the contract is subject to the availability of 586  
state and federal funds. 587

(C) (1) The department shall establish an automated child 588  
care system to track child attendance and enrollment and 589  
calculate payments for publicly funded child care. ~~Not later~~ 590

~~than July 9, 2028, and thereafter, the Subject to section 591  
5104.321 of the Revised Code, the department shall calculate 592  
payments for publicly funded child care based on a child's 593  
~~enrollment, as described in 45 C.F.R. 98.45(m), rather than on a~~ 594  
~~child's attendance.~~ 595~~

(2) Each eligible provider that provides publicly funded 596  
child care shall participate in the automated child care system. 597  
A provider participating in the system shall not do any of the 598  
following: 599

(a) Use or have possession of a personal identification 600  
number or password issued to a caretaker parent under the 601  
automated child care system; 602

(b) Falsify child attendance or enrollment records; 603

(c) Knowingly seek or accept payment for publicly funded 604  
child care for a child not ~~enrolled in attendance~~ with the 605  
provider or for which the provider was not eligible; 606

(d) Knowingly seek or accept payment for child care for a 607  
child who resides in the provider's own home. 608

(3) (a) Except as provided in division (C) (3) (b) of this 609  
section, the department shall allow each provider participating 610  
in the automated child care system and each caretaker parent to 611  
backdate a child's attendance record only within ten business 612  
days or fourteen calendar days of the date that publicly funded 613  
child care was provided. If the tenth business day and 614  
fourteenth calendar day do not fall on the same date, the later 615  
of the two dates shall be the date within which the department 616  
shall allow the child's attendance record to be backdated. 617

(b) The department may grant approval to the provider or 618  
caretaker parent to backdate a child's attendance record within 619

thirty days of the date that publicly funded child care was 620  
provided or scheduled to be provided if the backdating relates 621  
to either of the following: 622

(i) A documented emergency or extenuating circumstance 623  
beyond the provider's or caretaker parent's control, such as a 624  
system outage, natural disaster, or other serious event as the 625  
department determines; 626

(ii) The thirty-day period described in division (L) of 627  
section 5104.38 of the Revised Code. 628

(D) The department may withhold any money due under this 629  
chapter ~~and may~~, recover through any appropriate method any 630  
money erroneously paid under this chapter, or suspend or 631  
terminate a contract to provide publicly funded child care 632  
entered into under this section if evidence demonstrates ~~that a~~ 633  
~~provider of publicly funded child care failed to comply with~~ 634  
~~either any~~ of the following: 635

(1) ~~The~~ That a provider of publicly funded child care 636  
failed to comply with the terms of the contract entered into 637  
under this section; 638

(2) ~~This~~ That a provider of publicly funded child care 639  
failed to comply with this chapter or any rules adopted under 640  
it; 641

(3) That a provider of publicly funded child care 642  
knowingly engaged in the misuse of public funds or acted with 643  
intent to commit fraud against the publicly funded child care 644  
program. 645

(E) In addition to the authority granted in division (D) 646  
of this section, the department may withhold from a provider of 647  
publicly funded child care any money due for a child or children 648

in the provider's care if evidence demonstrates that, in the 649  
case of the child or children, the provider is knowingly 650  
engaging in the misuse of public funds or acting with intent to 651  
commit fraud against the publicly funded child care program. 652

(F) If the department has evidence that a provider has 653  
employed an individual who is ineligible for employment under 654  
section 5104.013 of the Revised Code and the provider has not 655  
released the individual from employment upon notice that the 656  
individual is ineligible, the department may terminate 657  
immediately the contract ~~entered into under this section~~ to 658  
provide publicly funded child care entered into under this 659  
section. 660

~~(F)~~(G) Any decision by the department concerning publicly 661  
funded child care, including the recovery of funds, overpayment 662  
determinations, and contract suspensions or terminations is 663  
final and is not subject to appeal, hearing, or further review 664  
under Chapter 119. of the Revised Code. 665

**Sec. 5104.321.** Beginning July 1, 2027, in calculating 666  
payments for publicly funded child care based on a child's 667  
attendance under division (C)(1) of section 5104.32 of the 668  
Revised Code, all of the following apply: 669

(A) The department of children and youth shall recognize 670  
the following as an absent day: any day that the child is 671  
authorized and scheduled to be in the care of a provider of 672  
publicly funded child care but does not receive the care as 673  
authorized, including when the child attended for part of the 674  
day but needed to leave early. 675

(B) The department shall not pay a provider for an absent 676  
day before the child's actual, initial attendance with the 677

provider. 678

(C) The department shall not recognize a full-time plus 679  
authorization. 680

(D) The department shall allow a provider to use an 681  
eligible absent day when care cannot be provided due to an 682  
emergency or other circumstance beyond the provider's control, 683  
which prevented the provider from operating on a day that the 684  
child was authorized and scheduled to receive care. 685

**Sec. 5104.34.** (A) (1) Each county department of job and 686  
family services shall implement procedures for making 687  
determinations of eligibility for publicly funded child care. 688  
Under those procedures, the eligibility determination for each 689  
applicant shall be made no later than thirty calendar days from 690  
the date the county department receives a completed application 691  
for publicly funded child care. Each applicant shall be notified 692  
promptly of the results of the eligibility determination. An 693  
applicant aggrieved by a decision or delay in making an 694  
eligibility determination may appeal the decision or delay to 695  
the department of children and youth in accordance with section 696  
5101.35 of the Revised Code. The due process rights of 697  
applicants shall be protected. 698

To the extent permitted by federal law, the county 699  
department may make all determinations of eligibility for 700  
publicly funded child care, may contract with child care 701  
providers or child care resource and referral service 702  
organizations for the providers or resource and referral service 703  
organizations to make all or any part of the determinations, and 704  
may contract with child care providers or child care resource 705  
and referral service organizations for the providers or resource 706  
and referral service organizations to collect specified 707

information for use by the county department in making 708  
determinations. If a county department contracts with a child 709  
care provider or a child care resource and referral service 710  
organization for eligibility determinations or for the 711  
collection of information, the contract shall require the 712  
provider or resource and referral service organization to make 713  
each eligibility determination no later than thirty calendar 714  
days from the date the provider or resource and referral 715  
organization receives a completed application that is the basis 716  
of the determination and to collect and transmit all necessary 717  
information to the county department within a period of time 718  
that enables the county department to make each eligibility 719  
determination no later than thirty days after the filing of the 720  
application that is the basis of the determination. 721

The county department may station employees of the 722  
department in various locations throughout the county to collect 723  
information relevant to applications for publicly funded child 724  
care and to make eligibility determinations. The county 725  
department, child care provider, and child care resource and 726  
referral service organization shall make each determination of 727  
eligibility for publicly funded child care no later than thirty 728  
days after the filing of the application that is the basis of 729  
the determination, shall make each determination in accordance 730  
with any relevant rules adopted pursuant to section 5104.38 of 731  
the Revised Code, and shall notify promptly each applicant for 732  
publicly funded child care of the results of the determination 733  
of the applicant's eligibility. 734

The director of children and youth shall adopt rules in 735  
accordance with Chapter 119. of the Revised Code for monitoring 736  
the eligibility determination process. In accordance with those 737  
rules, the state department shall monitor eligibility 738

determinations made by county departments of job and family 739  
services and shall direct any entity that is not in compliance 740  
with this division or any rule adopted under this division to 741  
implement corrective action specified by the department. 742

(2) (a) All eligibility determinations for publicly funded 743  
child care shall be made in accordance with rules adopted 744  
pursuant to division (A) of section 5104.38 of the Revised Code. 745  
Except as otherwise provided in this section, all of the 746  
following apply: 747

(i) Publicly funded child care may be provided only to 748  
eligible infants, toddlers, preschool-age children, school-age 749  
children under age thirteen, or children receiving special needs 750  
child care. 751

(ii) For an applicant to be eligible for publicly funded 752  
child care, the caretaker parent must be employed or 753  
participating in a program of education or training for an 754  
amount of time reasonably related to the time that the parent's 755  
children are receiving publicly funded child care. This 756  
restriction does not apply to families whose children are 757  
eligible for protective child care. 758

(iii) The eligibility period for publicly funded child 759  
care shall be at least twelve months. 760

(b) If a caretaker parent who has been determined eligible 761  
to receive publicly funded child care no longer meets the 762  
requirements of division (A) (2) (a) (ii) of this section, the 763  
caretaker parent may continue to receive publicly funded child 764  
care for a period of at least three but not more than four 765  
months not to extend beyond the caretaker parent's eligibility 766  
period. 767

(c) If a child turns thirteen, or if a child receiving 768  
special needs child care turns eighteen, during the eligibility 769  
period, the caretaker parent may continue to receive publicly 770  
funded child care until the end of that eligibility period. 771

Subject to available funds, the department of children and 772  
youth shall allow a family to receive publicly funded child care 773  
unless the family's income exceeds the maximum income 774  
eligibility limit. Initial and continued eligibility for 775  
publicly funded child care is subject to available funds unless 776  
the family is receiving child care pursuant to division (A) (1), 777  
(2), (3), or (4) of section 5104.30 of the Revised Code. If the 778  
department must limit eligibility due to lack of available 779  
funds, it shall give first priority for publicly funded child 780  
care to an assistance group whose income is not more than the 781  
maximum income eligibility limit that received transitional 782  
child care in the previous month but is no longer eligible 783  
because the eligibility period has expired. Such an assistance 784  
group shall continue to receive priority for publicly funded 785  
child care until its income exceeds the maximum income 786  
eligibility limit. 787

(3) An assistance group that ceases to participate in the 788  
Ohio works first program established under Chapter 5107. of the 789  
Revised Code is eligible for transitional child care at any time 790  
during the immediately following twelve-month period that both 791  
of the following apply: 792

(a) The assistance group requires child care due to 793  
employment; 794

(b) The assistance group's income is not more than one 795  
hundred fifty per cent of the federal poverty line. 796

An assistance group ineligible to participate in the Ohio works first program pursuant to section 5101.83 or section 5107.16 of the Revised Code is not eligible for transitional child care.

(B) To the extent permitted by federal law, the department of children and youth may require a caretaker parent determined to be eligible for publicly funded child care to pay a fee according to the schedule of fees established in rules adopted under section 5104.38 of the Revised Code. The department shall make protective child care services and homeless child care services available to children without regard to the income or assets of the caretaker parent of the child.

(C) A caretaker parent receiving publicly funded child care shall report to the entity that determined eligibility any changes in status with respect to employment or participation in a program of education or training not later than ten calendar days after the change occurs.

(D) If the department of children and youth determines that available resources are not sufficient to provide publicly funded child care to all eligible families who request it, the department may establish a waiting list. The department may establish separate waiting lists within the waiting list based on income.

(E) A caretaker parent shall ~~not~~ receive publicly funded child care only from ~~more than~~ one child care provider per child during a week, unless ~~a county~~ the department of children and youth or its designee grants the family an exemption on a temporary basis for one of the following reasons:

(1) ~~The child needs additional care during non-traditional~~

~~hours;~~ 826

~~(2)~~ The child needs to change providers in the middle of 827  
the week, for a period not more than one week, and the hours of 828  
care provided by the providers do not overlap; 829

~~(3)~~ (2) The child's provider is closed on scheduled school 830  
days off or on calamity days; 831

(3) The child's need cannot be met by one provider without 832  
impacting the family's education, employment, or training 833  
schedule. 834

(F) As used in this section, "maximum income eligibility 835  
limit" means the amount of income specified in rules adopted 836  
under division (A) of section 5104.38 of the Revised Code. 837

**Sec. 5104.38.** In addition to any other rules adopted under 838  
this chapter, the director of children and youth shall adopt 839  
rules in accordance with Chapter 119. of the Revised Code 840  
governing financial and administrative requirements for publicly 841  
funded child care and establishing all of the following: 842

(A) Procedures and criteria to be used in making 843  
determinations of eligibility for publicly funded child care 844  
that give priority to children of families with lower incomes 845  
and procedures and criteria for eligibility for publicly funded 846  
protective child care or homeless child care. The rules shall 847  
specify the maximum amount of income a family may have for 848  
initial and continued eligibility. The maximum amount shall not 849  
exceed three hundred per cent of the federal poverty line. The 850  
rules may specify exceptions to the eligibility requirements in 851  
the case of a family that previously received publicly funded 852  
child care and is seeking to have the child care reinstated 853  
after the family's eligibility was terminated. 854

(B) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider.

(C) A formula for determining the amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department to use for administrative purposes;

(D) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;

(E) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;

(F) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;

(G) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;

(H) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(I) A definition of "person who stands in loco parentis" for the purposes of ~~division (CC) (3) of~~ section 5104.01 of the

Revised Code;	884
(J) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;	885 886 887 888 889
(K) If the director establishes a different payment rate under division (E) (3) (d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;	890 891 892 893 894
(L) To the extent permitted by federal law, procedures for enrolling and paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period;	895 896 897 898 899 900 901 902
(M) Any other rules necessary to carry out sections 5104.30 to 5104.43 of the Revised Code.	903 904
<u>Sec. 5104.45. (A) Upon the written request of the director of children and youth or upon the inspector general's becoming aware of criminal or improper activity related to Chapter 5104. and the publicly funded child care program described in section 5104.30 of the Revised Code, the inspector general shall coordinate with the director to determine an appropriate course of action in the matter, which may include an investigation conducted by the inspector general. If it is determined that an</u>	905 906 907 908 909 910 911 912

investigation is appropriate, the inspector general shall 913  
investigate the matter in accordance with Chapter 121. of the 914  
Revised Code. 915

(B) As soon as practicable after the inspector general 916  
completes an investigation into the matter as described in 917  
division (A) of this section and that investigation yields 918  
credible findings of criminal or improper activity, which may 919  
relate to waste, fraud, and abuse, the inspector general shall 920  
share the investigation's findings with the prosecuting attorney 921  
having jurisdiction of the matter. 922

(C) Not later than sixty days after the findings are 923  
shared, the prosecuting attorney shall indicate to the inspector 924  
general whether the prosecuting attorney intends to initiate and 925  
prosecute in any court or tribunal of competent jurisdiction in 926  
this state any necessary criminal or civil action relating to 927  
the matter. If the prosecuting attorney so indicates, the 928  
prosecuting attorney may initiate and prosecute any necessary 929  
criminal or civil action. 930

If the prosecuting attorney notifies the inspector general 931  
before the sixty days have elapsed that such a time period is 932  
not sufficient for determining whether to initiate and prosecute 933  
any necessary criminal or civil action, then not later than one 934  
hundred twenty days after the findings are shared, the 935  
prosecuting attorney shall indicate to the inspector general 936  
whether the prosecuting attorney intends to initiate and 937  
prosecute any necessary criminal or civil action. If the 938  
prosecuting attorney so indicates, the prosecuting attorney may 939  
initiate and prosecute any necessary criminal or civil action. 940

(D) If the prosecuting attorney indicates to the inspector 941  
general by either time period described in division (C) of this 942

section that the prosecuting attorney will not initiate and 943  
prosecute any necessary criminal or civil action, then both of 944  
the following apply: 945

(1) As part of such indication, the prosecuting attorney 946  
shall share with the inspector general any information that the 947  
prosecuting attorney gathered when determining whether to 948  
initiate and prosecute an action; 949

(2) As soon as practicable after receiving such 950  
indication, the inspector general shall share with the attorney 951  
general the findings of the investigation described in division 952  
(A) of this section and any information described in division 953  
(D) (1) of this section. 954

The inspector general also shall share the findings with 955  
the attorney general if the prosecuting attorney never indicates 956  
to the inspector general by a time period described in division 957  
(C) of this section whether it intends to initiate and prosecute 958  
an action. 959

The inspector general shall not share its findings or any 960  
information from the prosecuting attorney with the attorney 961  
general before a time period described in division (C) of this 962  
section has elapsed. 963

(E) The attorney general may initiate and prosecute any 964  
necessary criminal or civil action after receiving the findings 965  
and information as described in division (D) of this section. 966  
When proceeding under this division, the attorney general, and 967  
any assistant or special counsel designated by the attorney 968  
general for that purpose, has all rights, privileges, and powers 969  
of prosecuting attorneys. The attorney general has exclusive 970  
supervision and control of all investigations and prosecutions 971

initiated by the attorney general under this section. The 972  
forfeiture provisions of Chapter 2981. of the Revised Code apply 973  
in relation to any such criminal action initiated and prosecuted 974  
by the attorney general. 975

**Sec. 5104.53.** (A) As used in this section: 976

(1) "Family services program" has the same meaning as in 977  
section 5101.35 of the Revised Code. 978

(2) "IEP" has the same meaning as in section 3323.01 of 979  
the Revised Code. 980

(3) "Resource caregiver" has the same meaning as in 981  
section 5103.02 of the Revised Code. 982

(B) The early childhood education grant program is created 983  
in the department of children and youth. Subject to available 984  
funds, the program shall support and invest in early learning 985  
and development programs operating in this state by awarding 986  
grants to programs that meet the conditions of this section in 987  
an amount that corresponds to the number of eligible children 988  
served by the programs. 989

(C) To be eligible for a grant under this section, an 990  
early learning and development program shall meet each of the 991  
following conditions: 992

(1) The program is rated through the step up to quality 993  
program established under section 5104.29 of the Revised Code at 994  
the tiered rating specified by the department in rules adopted 995  
under this section. 996

(2) The program provides early learning and development 997  
services to one or more preschool-age children described in 998  
division (D) of this section. 999

(3) The program meets any other eligibility condition	1000
specified by the department in rules adopted under this section.	1001
(D) A preschool-age child who meets all of the following	1002
conditions, as determined by a county department of job and	1003
family services, is eligible to participate in the early	1004
childhood education grant program if a slot is available:	1005
(1) Either the amount of the child's family income does	1006
not exceed two hundred per cent of the federal poverty line or	1007
the child meets one of the following conditions:	1008
(a) An IEP has been developed for the child;	1009
(b) The child is placed with a resource caregiver as	1010
described in Chapter 5103. of the Revised Code, with such	1011
placement documented by either a family case plan or kinship	1012
permanency incentive payments;	1013
(c) The child is homeless as described in <del>division (V) of</del>	1014
section 5104.01 of the Revised Code.	1015
(2) The child is a citizen of the United States or a	1016
qualified alien.	1017
(3) The child meets any other eligibility condition	1018
specified by the department in rules adopted under this section.	1019
(E) Any funds appropriated to the department for purposes	1020
of the early childhood education grant program shall be used as	1021
follows:	1022
(1) In each fiscal year, not more than two per cent of	1023
appropriated funds shall be used for program support and	1024
technical assistance.	1025
(2) Appropriated funds other than those described in	1026

division (E) (1) of this section shall be distributed to grant recipients. 1027  
1028

(F) In accordance with Chapter 119. of the Revised Code, 1029  
the director shall adopt rules to implement this section and 1030  
administer the early childhood education grant program, 1031  
including rules addressing all of the following topics: 1032

(1) Eligibility conditions and other requirements for 1033  
participation in the grant program by early learning and 1034  
development programs, including the tiered rating at which a 1035  
program becomes eligible to participate; 1036

(2) Eligibility conditions for children participating in 1037  
the early childhood education grant program if a slot is 1038  
available; 1039

(3) Standards, procedures, and requirements to apply for 1040  
and distribute funds to participating early learning and 1041  
development programs; 1042

(4) In the event funds are distributed in error under the 1043  
program, methods by which the department may recover those 1044  
funds. 1045

(G) The award of an early childhood education grant under 1046  
this section shall not be considered publicly funded child care 1047  
or a family services program. 1048

**Section 2.** That existing sections 121.44, 5104.01, 1049  
5104.30, 5104.32, 5104.34, 5104.38, and 5104.53 of the Revised 1050  
Code are hereby repealed. 1051