

**As Passed by the House**

**136th General Assembly**

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**Sub. H. B. No. 647**

**Representatives Plummer, Young**

**Cosponsors: Representatives White, A., Fowler Arthur, Abrams, Bird, Brennan, Click, Daniels, Deeter, Fischer, Holmes, Johnson, Mathews, A., Mathews, T., Miller, K., Newman, Peterson, Roemer, Santucci, Sigrist, Williams, Willis**

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

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

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

**Sec. 5104.01.** As used in this chapter: 9

(A) "Administrator" means the person responsible for the 10  
daily operation of a center, type A home, or approved child day 11  
camp. The administrator and the owner may be the same person. 12

(B) "Approved child day camp" means a child day camp 13  
approved pursuant to section 5104.22 of the Revised Code. 14

(C) "Authorized representative" means an individual 15  
employed by a center, type A home, or approved child day camp 16  
that is owned by a person other than an individual and who is 17

authorized by the owner to do all of the following:	18
(1) Communicate on the owner's behalf;	19
(2) Submit on the owner's behalf applications for licensure or approval;	20 21
(3) Enter into on the owner's behalf provider agreements for publicly funded child care.	22 23
(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care funded by the child care block grant act.	24 25 26 27
(E) "Career pathways model" means an alternative pathway to meeting the requirements to be a child care staff member or administrator that does both of the following:	28 29 30
(1) Uses a framework approved by the director of children and youth to document formal education, training, experience, and specialized credentials and certifications;	31 32 33
(2) Allows the child care staff member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.	34 35 36
(F) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.	37 38 39 40 41 42 43 44
(G) "Chartered nonpublic school" means a school that meets	45

standards for nonpublic schools prescribed by the director of 46  
education and workforce for nonpublic schools pursuant to 47  
section 3301.07 of the Revised Code. 48

(H) "Child" includes an infant, toddler, preschool-age 49  
child, or school-age child. 50

(I) "Child care block grant act" means the "Child Care and 51  
Development Block Grant Act of 2014," 128 Stat. 1971 (2014), 42 52  
U.S.C. 9858, as amended. 53

(J) "Child day camp" means a program in which only school- 54  
age children attend or participate, that operates for no more 55  
than twelve hours per day and no more than fifteen weeks during 56  
the summer. For purposes of this division, the maximum twelve 57  
hours of operation time does not include transportation time 58  
from a child's home to a child day camp and from a child day 59  
camp to a child's home. 60

(K) "Child care" means all of the following: 61

(1) Administering to the needs of infants, toddlers, 62  
preschool-age children, and school-age children outside of 63  
school hours; 64

(2) By persons other than their parents, guardians, or 65  
custodians; 66

(3) For part of the twenty-four-hour day; 67

(4) In a place other than a child's own home, except that 68  
an in-home aide provides child care in the child's own home; 69

(5) By a provider required by this chapter to be licensed 70  
or approved by the department of children and youth, certified 71  
by a county department of job and family services, or under 72  
contract with the department to provide publicly funded child 73

care as described in section 5104.32 of the Revised Code. 74

(L) "Child care center" and "center" mean any place that 75  
is not the permanent residence of the licensee or administrator 76  
in which child care or publicly funded child care is provided 77  
for seven or more children at one time. "Child care center" and 78  
"center" do not include any of the following: 79

(1) A place located in and operated by a hospital, as 80  
defined in section 3727.01 of the Revised Code, in which the 81  
needs of children are administered to, if all the children whose 82  
needs are being administered to are monitored under the on-site 83  
supervision of a physician licensed under Chapter 4731. of the 84  
Revised Code or a registered nurse licensed under Chapter 4723. 85  
of the Revised Code, and the services are provided only for 86  
children who, in the opinion of the child's parent, guardian, or 87  
custodian, are exhibiting symptoms of a communicable disease or 88  
other illness or are injured; 89

(2) A child day camp; 90

(3) A place that provides care, if all of the following 91  
apply: 92

(a) An organized religious body provides the care; 93

(b) A parent, custodian, or guardian of at least one child 94  
receiving care is on the premises and readily accessible at all 95  
times; 96

(c) The care is not provided for more than thirty days a 97  
year; 98

(d) The care is provided only for preschool-age and 99  
school-age children. 100

(M) "Child care resource and referral service 101

organization" means a community-based nonprofit organization	102
that provides child care resource and referral services but not	103
child care.	104
(N) "Child care resource and referral services" means all	105
of the following services:	106
(1) Maintenance of a uniform data base of all child care	107
providers in the community that are in compliance with this	108
chapter, including current occupancy and vacancy data;	109
(2) Provision of individualized consumer education to	110
families seeking child care;	111
(3) Provision of timely referrals of available child care	112
providers to families seeking child care;	113
(4) Recruitment of child care providers;	114
(5) Assistance in developing, conducting, and	115
disseminating training for child care professionals and	116
provision of technical assistance to current and potential child	117
care providers, employers, and the community;	118
(6) Collection and analysis of data on the supply of and	119
demand for child care in the community;	120
(7) Technical assistance concerning locally, state, and	121
federally funded child care and early childhood education	122
programs;	123
(8) Stimulation of employer involvement in making child	124
care more affordable, more available, safer, and of higher	125
quality for their employees and for the community;	126
(9) Provision of written educational materials to	127
caretaker parents and informational resources to child care	128

providers;	129
(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;	130 131 132 133 134
(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.	135 136 137 138
(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.	139 140 141 142 143 144
(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.	145 146 147 148 149
(Q) "Early learning and development program" has the same meaning as "licensed child care program."	150 151
(R) "Employee" means a person who either:	152
(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;	153 154 155
(2) Is assigned specific working hours or duties in a	156

child care center, type A family child care home, licensed type	157
B family child care home, or approved child day camp.	158
(S) "Employer" means a person, firm, institution,	159
organization, or agency that operates a child care center, type	160
A family child care home, licensed type B family child care	161
home, or approved child day camp subject to licensure or	162
approval under this chapter.	163
(T) "Federal poverty line" means the official poverty	164
guideline as revised annually in accordance with section 673(2)	165
of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat.	166
511, 42 U.S.C. 9902, as amended, for a family size equal to the	167
size of the family of the person whose income is being	168
determined.	169
(U) <u>"Fraud against the publicly funded child care program"</u>	170
<u>means an intentional deception or misrepresentation made by a</u>	171
<u>person with the knowledge that the deception could result in</u>	172
<u>some unauthorized benefit under the publicly funded child care</u>	173
<u>program to the person or some other person, including a child</u>	174
<u>care provider. "Fraud against the publicly funded child care</u>	175
<u>program" includes any act that constitutes fraud under federal</u>	176
<u>law or the laws of this state.</u>	177
(V) <u>"Head start program"</u> means a school-readiness program	178
that satisfies all of the following:	179
(1) Is for children from birth to age five who are from	180
low-income families;	181
(2) Receives funds distributed under the "Improving Head	182
Start for School-Readiness Act of 2007," 42 U.S.C. 9831, as	183
amended;	184
(3) Is licensed as a child care program.	185

<del>(V)</del> <u>(W)</u> "Home education" has the same meaning as in section 3321.042 of the Revised Code.	186 187
<del>(W)</del> <u>(X)</u> "Home education learning pod" means a voluntary association of parents who direct their children's education through home education and includes the following characteristics:	188 189 190 191
(1) The parents choose to group their children together in a home or other location at various times, which may include hours when home education is not provided.	192 193 194
(2) The pod includes only the parents' children who are receiving home education, except that it also may include siblings of those children, or other children who are under the care of the parents, regardless of age.	195 196 197 198
(3) At least one parent of any of the children participating in the pod must be on the premises while the pod is meeting.	199 200 201
<del>(X)</del> <u>(Y)</u> "Homeless child care" means child care provided to a child who satisfies any of the following:	202 203
(1) Is homeless as defined in 42 U.S.C. 11302;	204
(2) Is a homeless child or youth as defined in 42 U.S.C. 11434a;	205 206
(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.	207 208 209 210
<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.	211 212 213

~~(Z)~~(AA) "Indicator checklist" means an inspection tool, 214  
used in conjunction with an instrument-based program monitoring 215  
information system, that contains selected licensing 216  
requirements that are statistically reliable indicators or 217  
predictors of a child care center's, type A family child care 218  
home's, or licensed type B family child care home's compliance 219  
with licensing requirements. 220

~~(AA)~~(BB) "Infant" means a child who is less than eighteen 221  
months of age. 222

~~(BB)~~(CC) "In-home aide" means a person who does not reside 223  
with the child but provides care in the child's home and is 224  
certified by a county director of job and family services 225  
pursuant to section 5104.12 of the Revised Code to provide 226  
publicly funded child care to a child in a child's own home 227  
pursuant to this chapter and any rules adopted under it. 228

~~(CC)~~(DD) "Instrument-based program monitoring information 229  
system" means a method to assess compliance with licensing 230  
requirements for child care centers, type A family child care 231  
homes, and licensed type B family child care homes in which each 232  
licensing requirement is assigned a weight indicative of the 233  
relative importance of the requirement to the health, growth, 234  
and safety of the children that is used to develop an indicator 235  
checklist. 236

~~(DD)~~(EE) "License capacity" means the maximum number in 237  
each age category of children who may be cared for in a child 238  
care center, type A family child care home, or licensed type B 239  
family child care home at one time as determined by the director 240  
of children and youth considering building occupancy limits 241  
established by the department of commerce, amount of available 242  
indoor floor space and outdoor play space, and amount of 243

available play equipment, materials, and supplies.	244
<del>(EE)</del> (FF) "Licensed child care program" means any of the	245
following:	246
(1) A child care center licensed by the department of	247
children and youth pursuant to this chapter;	248
(2) A type A family child care home or type B family child	249
care home licensed by the department of children and youth	250
pursuant to this chapter;	251
(3) A licensed preschool program or licensed school child	252
program.	253
<del>(FF)</del> (GG) "Licensed preschool program" or "licensed school	254
child program" means a preschool program or school child	255
program, as defined in section 3301.52 of the Revised Code, that	256
is licensed by the department of children and youth pursuant to	257
sections 3301.52 to 3301.59 of the Revised Code.	258
<del>(GG)</del> (HH) "Licensed type B family child care home" and	259
"licensed type B home" mean a type B family child care home for	260
which there is a valid license issued by the director of	261
children and youth pursuant to section 5104.03 of the Revised	262
Code.	263
<del>(HH)</del> (II) "Licensee" means the owner of a child care	264
center, type A family child care home, or type B family child	265
care home that is licensed pursuant to this chapter and who is	266
responsible for ensuring compliance with this chapter and rules	267
adopted pursuant to this chapter.	268
<del>(II)</del> (JJ) " <u>Misuse of public funds" means intentional or</u>	269
<u>repeated improper billing, expenditure, receipt, or retention of</u>	270
<u>publicly funded child care payments in violation of this chapter</u>	271

<u>or rules adopted under it.</u>	272
<u>(KK)</u> "Operate a child day camp" means to operate,	273
establish, manage, conduct, or maintain a child day camp.	274
<del>(JJ)</del> <u>(LL)</u> "Owner" includes a person, as defined in section	275
1.59 of the Revised Code, or government entity.	276
<del>(KK)</del> <u>(MM)</u> "Parent cooperative child care center," "parent	277
cooperative center," "parent cooperative type A family child	278
care home," and "parent cooperative type A home" mean a	279
corporation or association organized for providing educational	280
services to the children of members of the corporation or	281
association, without gain to the corporation or association as	282
an entity, in which the services of the corporation or	283
association are provided only to children of the members of the	284
corporation or association, ownership and control of the	285
corporation or association rests solely with the members of the	286
corporation or association, and at least one parent-member of	287
the corporation or association is on the premises of the center	288
or type A home during its hours of operation.	289
<del>(LL)</del> <u>(NN)</u> "Part-time child care center," "part-time	290
center," "part-time type A family child care home," and "part-	291
time type A home" mean a center or type A home that provides	292
child care or publicly funded child care for not more than four	293
hours a day for any child or not more than fifteen consecutive	294
weeks per year, regardless of the number of hours per day.	295
<del>(MM)</del> <u>(OO)</u> "Place of worship" means a building where	296
activities of an organized religious group are conducted and	297
includes the grounds and any other buildings on the grounds used	298
for such activities.	299
<del>(NN)</del> <u>(PP)</u> "Preschool-age child" means a child who is three	300

years old or older but is not a school-age child. 301

~~(OO)~~ (QQ) "Protective child care" means publicly funded 302  
child care for the direct care and protection of a child to whom 303  
all of the following apply: 304

(1) A case plan has been prepared and maintained for the 305  
child pursuant to section 2151.412 of the Revised Code. 306

(2) The case plan indicates a need for protective care. 307

(3) The child resides with a parent, stepparent, guardian, 308  
or another person who stands in loco parentis as defined in 309  
rules adopted under section 5104.38 of the Revised Code. 310

~~(PP)~~ (RR) "Publicly funded child care" means administering 311  
to the needs of infants, toddlers, preschool-age children, and 312  
school-age children under age thirteen during any part of the 313  
twenty-four-hour day by persons other than their caretaker 314  
parents for remuneration wholly or in part with federal or state 315  
funds, including funds available under the child care block 316  
grant act, Title IV-A, and Title XX, distributed by the 317  
department of children and youth. 318

~~(OO)~~ (SS) "Religious activities" means any of the 319  
following: worship or other religious services; religious 320  
instruction; Sunday school classes or other religious classes 321  
conducted during or prior to worship or other religious 322  
services; youth or adult fellowship activities; choir or other 323  
musical group practices or programs; meals; festivals; or 324  
meetings conducted by an organized religious group. 325

~~(RR)~~ (TT) "School-age child" means a child who is enrolled 326  
in or is eligible to be enrolled in a grade of kindergarten or 327  
above but is less than fifteen years old or, in the case of a 328  
child who is receiving special needs child care, is less than 329

eighteen years old. 330

~~(SS)~~ (UU) "Serious risk noncompliance" means a licensure or 331  
certification rule violation that leads to a great risk of harm 332  
to, or death of, a child, and is observable, not inferable. 333

~~(TT)~~ (VV) "Special needs child care" means child care 334  
provided to a child who is less than eighteen years of age and 335  
either has one or more chronic health conditions or does not 336  
meet age appropriate expectations in one or more areas of 337  
development, including social, emotional, cognitive, 338  
communicative, perceptual, motor, physical, and behavioral 339  
development and that may include on a regular basis such 340  
services, adaptations, modifications, or adjustments needed to 341  
assist in the child's function or development. 342

~~(UU)~~ (WW) "Title IV-A" means Title IV-A of the "Social 343  
Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 344

~~(VV)~~ (XX) "Title XX" means Title XX of the "Social Security 345  
Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 346

~~(WW)~~ (YY) "Toddler" means a child who is at least eighteen 347  
months of age but less than three years of age. 348

~~(XX)~~ (ZZ) "Type A family child care home" and "type A home" 349  
mean the permanent residence of the administrator in which child 350  
care or publicly funded child care is provided for eight to 351  
fourteen children at one time or a permanent residence of the 352  
administrator in which child care is provided for four to 353  
fourteen children at one time if four or more children at one 354  
time are under two years of age, provided that if the number of 355  
children under the age of two years at one time is greater than 356  
three or the total number of children at one time is greater 357  
than seven, an additional adult shall be present. In counting 358

children for the purposes of this division, any children under 359  
six years of age who are related to a licensee, administrator, 360  
or employee and who are on the premises of the type A home shall 361  
be counted. "Type A family child care home" and "type A home" do 362  
not include any child day camp. 363

~~(YY)~~ (AAA) "Type B family child care home" and "type B 364  
home" mean a permanent residence of the provider in which care 365  
is provided for one to seven children at one time and in which 366  
no more than three children are under two years of age at one 367  
time. In counting children for the purposes of this division, 368  
any children under six years of age who are related to the 369  
provider and who are on the premises of the type B home shall be 370  
counted. "Type B family child care home" and "type B home" do 371  
not include any child day camp. 372

**Sec. 5104.30.** (A) The department of children and youth is 373  
hereby designated as the state agency responsible for 374  
administration and coordination of federal and state funding for 375  
publicly funded child care in this state. Publicly funded child 376  
care shall be provided to the following: 377

(1) Recipients of transitional child care as provided 378  
under section 5104.34 of the Revised Code; 379

(2) Participants in the Ohio works first program 380  
established under Chapter 5107. of the Revised Code; 381

(3) Individuals who would be participating in the Ohio 382  
works first program if not for a sanction under section 5107.16 383  
of the Revised Code and who continue to participate in a work 384  
activity, developmental activity, or alternative work activity 385  
pursuant to an assignment under section 5107.42 of the Revised 386  
Code; 387

(4) A family receiving publicly funded child care on 388  
October 1, 1997, until the family's income reaches one hundred 389  
fifty per cent of the federal poverty line; 390

(5) Subject to available funds, other individuals 391  
determined eligible in accordance with rules adopted under 392  
section 5104.38 of the Revised Code. 393

The department shall apply to the United States department 394  
of health and human services for authority to operate a 395  
coordinated program for publicly funded child care, if the 396  
director of children and youth determines that the application 397  
is necessary. For purposes of this section, the department of 398  
children and youth may enter into agreements with other state 399  
agencies that are involved in regulation or funding of child 400  
care. The department shall consider the special needs of migrant 401  
workers when it administers and coordinates publicly funded 402  
child care and shall develop appropriate procedures for 403  
accommodating the needs of migrant workers for publicly funded 404  
child care. 405

(B) The department of children and youth shall distribute 406  
state and federal funds for publicly funded child care, 407  
including appropriations of state funds for publicly funded 408  
child care and appropriations of federal funds available under 409  
the child care block grant act, Title IV-A, and Title XX. The 410  
department may use any state funds appropriated for publicly 411  
funded child care as the state share required to match any 412  
federal funds appropriated for publicly funded child care. 413

(C) In the use of federal funds available under the child 414  
care block grant act, all of the following apply: 415

(1) The department may use the federal funds to hire staff 416

to prepare any rules required under this chapter and to 417  
administer and coordinate federal and state funding for publicly 418  
funded child care. 419

(2) Not more than five per cent of the aggregate amount of 420  
the federal funds received for a fiscal year may be expended for 421  
administrative costs. 422

(3) The department shall allocate and use at least four 423  
per cent of the federal funds for the following: 424

(a) Activities designed to provide comprehensive consumer 425  
education to parents and the public; 426

(b) Activities that increase parental choice; 427

(c) Activities, including child care resource and referral 428  
services, designed to improve the quality, and increase the 429  
supply, of child care; 430

(d) Establishing the step up to quality program pursuant 431  
to section 5104.29 of the Revised Code. 432

(4) The department shall ensure that the federal funds 433  
will be used only to supplement, and will not be used to 434  
supplant, federal, state, and local funds available on the 435  
effective date of the child care block grant act for publicly 436  
funded child care and related programs. If authorized by rules 437  
adopted by the department pursuant to section 5104.42 of the 438  
Revised Code, county departments of job and family services may 439  
purchase child care from funds obtained through any other means. 440

(D) The department shall encourage the development of 441  
suitable child care throughout the state, especially in areas 442  
with high concentrations of recipients of public assistance and 443  
families with low incomes. The department shall encourage the 444

development of suitable child care designed to accommodate the 445  
special needs of migrant workers. On request, the department, 446  
through its employees or contracts with state or community child 447  
care resource and referral service organizations, shall provide 448  
consultation to groups and individuals interested in developing 449  
child care. The department of children and youth may enter into 450  
interagency agreements with the department of education and 451  
workforce, the chancellor of higher education, the department of 452  
development, and other state agencies and entities whenever the 453  
cooperative efforts of the other state agencies and entities are 454  
necessary for the department of children and youth to fulfill 455  
its duties and responsibilities under this chapter. 456

The department shall develop and maintain a registry of 457  
persons providing child care. The director shall adopt rules in 458  
accordance with Chapter 119. of the Revised Code establishing 459  
procedures and requirements for the registry's administration. 460

(E) (1) The director shall adopt rules in accordance with 461  
Chapter 119. of the Revised Code establishing both of the 462  
following: 463

(a) Payment rates for providers of publicly funded child 464  
care not later than the first day of July in each odd-numbered 465  
year; 466

(b) A procedure for paying providers of publicly funded 467  
child care. 468

(2) In establishing payment rates under division (E) (1) (a) 469  
of this section, the director shall do all of the following: 470

(a) Use the information obtained from the market rate 471  
survey developed and conducted in accordance with 45 C.F.R. 472  
98.45; 473

(b) Establish an enhanced payment rate for providers who 474  
~~enroll children whose~~ provide child care for caretaker parents 475  
who work nontraditional hours; 476

(c) With regard to the step up to quality program 477  
established pursuant to section 5104.29 of the Revised Code, 478  
establish enhanced payment rates for child care providers that 479  
participate in the program. 480

(3) In establishing payment rates under division (E) (1) (a) 481  
of this section, the director may establish different payment 482  
rates based on any of the following: 483

(a) Geographic location of the provider; 484

(b) Type of care provided; 485

(c) Age of the child served; 486

(d) Special needs of the child served; 487

(e) Whether the expanded hours of service are provided; 488

(f) Whether weekend service is provided; 489

(g) Whether the provider has exceeded the minimum 490  
requirements of state statutes and rules governing child care; 491

(h) Any other factors the director considers appropriate. 492

**Sec. 5104.32.** (A) All purchases of publicly funded child 493  
care shall be made under a contract entered into by a licensed 494  
child care center, licensed type A family child care home, 495  
licensed type B family child care home, certified in-home aide, 496  
approved child day camp, licensed preschool program, licensed 497  
school child program, or border state child care provider and 498  
the department of children and youth. All contracts for publicly 499  
funded child care shall be contingent upon the availability of 500

state and federal funds. The department shall prescribe a 501  
standard form to be used for all contracts for the purchase of 502  
publicly funded child care, regardless of the source of public 503  
funds used to purchase the child care. To the extent permitted 504  
by federal law and notwithstanding any other provision of the 505  
Revised Code that regulates state contracts or contracts 506  
involving the expenditure of state or federal funds, all 507  
contracts for publicly funded child care shall be entered into 508  
in accordance with the provisions of this chapter and are exempt 509  
from any other provision of the Revised Code that regulates 510  
state contracts or contracts involving the expenditure of state 511  
or federal funds. 512

(B) Each contract for publicly funded child care shall 513  
specify at least the following: 514

(1) That the provider of publicly funded child care agrees 515  
to be paid at the rate established pursuant to section 5104.30 516  
of the Revised Code; 517

(2) Whether the county department of job and family 518  
services, the provider, or a child care resource and referral 519  
service organization will make eligibility determinations, 520  
whether the provider or a child care resource and referral 521  
service organization will be required to collect information to 522  
be used by the county department to make eligibility 523  
determinations, and the time period within which the provider or 524  
child care resource and referral service organization is 525  
required to complete required eligibility determinations or to 526  
transmit to the county department any information collected for 527  
the purpose of making eligibility determinations; 528

(3) That the provider, other than a border state child 529  
care provider, shall continue to be licensed, approved, or 530

certified pursuant to this chapter and shall comply with all 531  
standards and other requirements in this chapter and in rules 532  
adopted pursuant to this chapter for maintaining the provider's 533  
license, approval, or certification; 534

(4) That, in the case of a border state child care 535  
provider, the provider shall continue to be licensed, certified, 536  
or otherwise approved by the state in which the provider is 537  
located and shall comply with all standards and other 538  
requirements established by that state for maintaining the 539  
provider's license, certificate, or other approval; 540

(5) Whether the provider will be paid by the department of 541  
children and youth or in some other manner as prescribed by 542  
rules adopted under section 5104.42 of the Revised Code; 543

(6) That the contract is subject to the availability of 544  
state and federal funds. 545

(C) (1) The department shall establish an automated child 546  
care system to track child attendance and enrollment and 547  
calculate payments for publicly funded child care. ~~Not later~~ 548  
~~than July 9, 2028, and thereafter, the~~ Subject to section 549  
5104.321 of the Revised Code, the department shall calculate 550  
payments for publicly funded child care based on a child's 551  
~~enrollment, as described in 45 C.F.R. 98.45(m), rather than on a~~ 552  
~~child's attendance.~~ 553

(2) Each eligible provider that provides publicly funded 554  
child care shall participate in the automated child care system. 555  
A provider participating in the system shall not do any of the 556  
following: 557

(a) Use or have possession of a personal identification 558  
number or password issued to a caretaker parent under the 559

automated child care system; 560

(b) Falsify child attendance or enrollment records; 561

(c) Knowingly seek or accept payment for publicly funded 562  
child care for a child not ~~enrolled~~ in attendance with the 563  
provider or for which the provider was not eligible; 564

(d) Knowingly seek or accept payment for child care for a 565  
child who resides in the provider's own home. 566

(3) Unless evidence demonstrates and the department has 567  
reason to suspect waste, fraud, or abuse on the part of a 568  
provider or caretaker parent, the department may do the 569  
following: 570

(a) Except as provided in division (C) (3) (b) of this 571  
section, allow each provider participating in the automated 572  
child care system and each caretaker parent to backdate a 573  
child's attendance record only within ten business days or 574  
fourteen calendar days of the date that publicly funded child 575  
care was provided. If the tenth business day and fourteenth 576  
calendar day do not fall on the same date, the later of the two 577  
dates shall be the date within which the department shall allow 578  
the child's attendance record to be backdated. 579

(b) Grant approval to the provider or caretaker parent to 580  
backdate a child's attendance record within thirty days of the 581  
date that publicly funded child care was provided or scheduled 582  
to be provided if the backdating relates to either of the 583  
following: 584

(i) A documented emergency or extenuating circumstance 585  
beyond the provider's or caretaker parent's control, such as a 586  
system outage, natural disaster, or other serious event as the 587  
department determines; 588

(ii) The thirty-day period described in division (L) of 589  
section 5104.38 of the Revised Code. 590

In the event backdating is allowed or approved under 591  
division (C) (3) of this section, the department shall pay the 592  
provider for the child's backdated attendance. 593

(D) The department may withhold any money due under this 594  
chapter and may, recover through any appropriate method any 595  
money erroneously paid under this chapter, or suspend or 596  
terminate a contract to provide publicly funded child care 597  
entered into under this section if evidence demonstrates that a 598  
provider of publicly funded child care failed to comply with 599  
either any of the following: 600

(1) The That a provider of publicly funded child care 601  
failed to comply with the terms of the contract entered into 602  
under this section; 603

(2) This That a provider of publicly funded child care 604  
failed to comply with this chapter or any rules adopted under 605  
it; 606

(3) That a provider of publicly funded child care engaged 607  
in the misuse of public funds or committed fraud against the 608  
publicly funded child care program. 609

(E) In addition to the authority granted in division (D) 610  
of this section, the department may withhold from a provider of 611  
publicly funded child care any money due for a child or children 612  
in the provider's care if evidence demonstrates that, in the 613  
case of the child or children, the provider engaged in the 614  
misuse of public funds or committed fraud against the publicly 615  
funded child care program. 616

(F) If the department has evidence that a provider has 617

employed an individual who is ineligible for employment under 618  
section 5104.013 of the Revised Code and the provider has not 619  
released the individual from employment upon notice that the 620  
individual is ineligible, the department may terminate 621  
immediately the contract ~~entered into under this section~~ to 622  
provide publicly funded child care entered into under this 623  
section. 624

~~(F)~~ (G) Any decision by the department concerning publicly 625  
funded child care, including the recovery of funds, overpayment 626  
determinations, and contract suspensions or terminations is 627  
final and is not subject to appeal, hearing, or further review 628  
under Chapter 119. of the Revised Code. 629

Sec. 5104.321. Beginning July 1, 2027, in calculating 630  
payments for publicly funded child care based on a child's 631  
attendance under division (C)(1) of section 5104.32 of the 632  
Revised Code, all of the following apply: 633

(A) Unless evidence demonstrates and the department of 634  
children and youth has reason to suspect waste, fraud, or abuse 635  
on the part of a provider of publicly funded child care or 636  
caretaker parent, the department may recognize the following as 637  
an absent day: any day that the child is authorized and 638  
scheduled to be in the care of a provider but does not receive 639  
the care as authorized. Any such recognition depends on the 640  
child's caretaker parent first having been notified of, and 641  
giving approval for, the provider's use of the absent day. 642

(B) The department shall not pay a provider for an absent 643  
day before the child's actual, initial attendance with the 644  
provider. 645

(C) The department shall not recognize a full-time plus 646

authorization. 647

(D) Unless evidence demonstrates and the department has 648  
reason to suspect waste, fraud, or abuse on the part of a 649  
provider or caretaker parent, the department may allow a 650  
provider to use an eligible absent day when care cannot be 651  
provided due to an emergency or other circumstance beyond the 652  
provider's control, which prevented the provider from operating 653  
on a day that the child was authorized and scheduled to receive 654  
care. 655

**Sec. 5104.34.** (A) (1) Each county department of job and 656  
family services shall implement procedures for making 657  
determinations of eligibility for publicly funded child care. 658  
Under those procedures, the eligibility determination for each 659  
applicant shall be made no later than thirty calendar days from 660  
the date the county department receives a completed application 661  
for publicly funded child care. Each applicant shall be notified 662  
promptly of the results of the eligibility determination. An 663  
applicant aggrieved by a decision or delay in making an 664  
eligibility determination may appeal the decision or delay to 665  
the department of children and youth in accordance with section 666  
5101.35 of the Revised Code. The due process rights of 667  
applicants shall be protected. 668

To the extent permitted by federal law, the county 669  
department may make all determinations of eligibility for 670  
publicly funded child care, may contract with child care 671  
providers or child care resource and referral service 672  
organizations for the providers or resource and referral service 673  
organizations to make all or any part of the determinations, and 674  
may contract with child care providers or child care resource 675  
and referral service organizations for the providers or resource 676

and referral service organizations to collect specified 677  
information for use by the county department in making 678  
determinations. If a county department contracts with a child 679  
care provider or a child care resource and referral service 680  
organization for eligibility determinations or for the 681  
collection of information, the contract shall require the 682  
provider or resource and referral service organization to make 683  
each eligibility determination no later than thirty calendar 684  
days from the date the provider or resource and referral 685  
organization receives a completed application that is the basis 686  
of the determination and to collect and transmit all necessary 687  
information to the county department within a period of time 688  
that enables the county department to make each eligibility 689  
determination no later than thirty days after the filing of the 690  
application that is the basis of the determination. 691

The county department may station employees of the 692  
department in various locations throughout the county to collect 693  
information relevant to applications for publicly funded child 694  
care and to make eligibility determinations. The county 695  
department, child care provider, and child care resource and 696  
referral service organization shall make each determination of 697  
eligibility for publicly funded child care no later than thirty 698  
days after the filing of the application that is the basis of 699  
the determination, shall make each determination in accordance 700  
with any relevant rules adopted pursuant to section 5104.38 of 701  
the Revised Code, and shall notify promptly each applicant for 702  
publicly funded child care of the results of the determination 703  
of the applicant's eligibility. 704

The director of children and youth shall adopt rules in 705  
accordance with Chapter 119. of the Revised Code for monitoring 706  
the eligibility determination process. In accordance with those 707

rules, the state department shall monitor eligibility 708  
determinations made by county departments of job and family 709  
services and shall direct any entity that is not in compliance 710  
with this division or any rule adopted under this division to 711  
implement corrective action specified by the department. 712

(2) (a) All eligibility determinations for publicly funded 713  
child care shall be made in accordance with rules adopted 714  
pursuant to division (A) of section 5104.38 of the Revised Code. 715  
Except as otherwise provided in this section, all of the 716  
following apply: 717

(i) Publicly funded child care may be provided only to 718  
eligible infants, toddlers, preschool-age children, school-age 719  
children under age thirteen, or children receiving special needs 720  
child care. 721

(ii) For an applicant to be eligible for publicly funded 722  
child care, the caretaker parent must be employed or 723  
participating in a program of education or training for an 724  
amount of time reasonably related to the time that the parent's 725  
children are receiving publicly funded child care. This 726  
restriction does not apply to families whose children are 727  
eligible for protective child care. 728

(iii) The eligibility period for publicly funded child 729  
care shall be at least twelve months. 730

(b) If a caretaker parent who has been determined eligible 731  
to receive publicly funded child care no longer meets the 732  
requirements of division (A) (2) (a) (ii) of this section, the 733  
caretaker parent may continue to receive publicly funded child 734  
care for a period of at least three but not more than four 735  
months not to extend beyond the caretaker parent's eligibility 736

period. 737

(c) If a child turns thirteen, or if a child receiving 738  
special needs child care turns eighteen, during the eligibility 739  
period, the caretaker parent may continue to receive publicly 740  
funded child care until the end of that eligibility period. 741

Subject to available funds, the department of children and 742  
youth shall allow a family to receive publicly funded child care 743  
unless the family's income exceeds the maximum income 744  
eligibility limit. Initial and continued eligibility for 745  
publicly funded child care is subject to available funds unless 746  
the family is receiving child care pursuant to division (A) (1), 747  
(2), (3), or (4) of section 5104.30 of the Revised Code. If the 748  
department must limit eligibility due to lack of available 749  
funds, it shall give first priority for publicly funded child 750  
care to an assistance group whose income is not more than the 751  
maximum income eligibility limit that received transitional 752  
child care in the previous month but is no longer eligible 753  
because the eligibility period has expired. Such an assistance 754  
group shall continue to receive priority for publicly funded 755  
child care until its income exceeds the maximum income 756  
eligibility limit. 757

(3) An assistance group that ceases to participate in the 758  
Ohio works first program established under Chapter 5107. of the 759  
Revised Code is eligible for transitional child care at any time 760  
during the immediately following twelve-month period that both 761  
of the following apply: 762

(a) The assistance group requires child care due to 763  
employment; 764

(b) The assistance group's income is not more than one 765

hundred fifty per cent of the federal poverty line. 766

An assistance group ineligible to participate in the Ohio 767  
works first program pursuant to section 5101.83 or section 768  
5107.16 of the Revised Code is not eligible for transitional 769  
child care. 770

(B) To the extent permitted by federal law, the department 771  
of children and youth may require a caretaker parent determined 772  
to be eligible for publicly funded child care to pay a fee 773  
according to the schedule of fees established in rules adopted 774  
under section 5104.38 of the Revised Code. The department shall 775  
make protective child care services and homeless child care 776  
services available to children without regard to the income or 777  
assets of the caretaker parent of the child. 778

(C) A caretaker parent receiving publicly funded child 779  
care shall report to the entity that determined eligibility any 780  
changes in status with respect to employment or participation in 781  
a program of education or training not later than ten calendar 782  
days after the change occurs. 783

(D) If the department of children and youth determines 784  
that available resources are not sufficient to provide publicly 785  
funded child care to all eligible families who request it, the 786  
department may establish a waiting list. The department may 787  
establish separate waiting lists within the waiting list based 788  
on income. 789

(E) A caretaker parent shall ~~not~~ receive publicly funded 790  
child care only from ~~more than~~ one child care provider per child 791  
during a week, unless ~~a county department grants~~ the family is 792  
granted an exemption on a temporary basis for one of the 793  
following reasons: 794

(1) <del>The child needs additional care during non-traditional hours;</del>	795
	796
<del>(2)</del> The child needs to change providers in the middle of the week, <u>for a period not more than one week,</u> and the hours of care provided by the providers do not overlap;	797
	798
	799
<del>(3)</del> (2) The child's provider is closed on scheduled school days off or on calamity days;	800
	801
(3) <u>The child's need cannot be met by one provider without impacting the family's education, employment, or training schedule.</u>	802
	803
	804
<u>The department is responsible for granting exemptions under this division, except that the department may authorize a county department of job and family services to do so in place of the department. The department shall not authorize a person or government entity other than a county department to grant exemptions in the department's place.</u>	805
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<u>An exemption described in division (E) (3) of this section shall be valid for a period not to exceed thirty days, except that the department may, on the request of a child's caretaker parent, extend the thirty-day period to a period not to exceed six months.</u>	811
	812
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<u>Before such an extension expires, the caretaker parent may request an additional extension not to exceed a six-month period. If the department authorizes the additional extension, the caretaker parent may request one or more such extensions before each expires.</u>	816
	817
	818
	819
	820
<u>To be eligible for one or more such extensions from the thirty-day limit, the caretaker parent shall demonstrate to the department that the family's education, training, or employment</u>	821
	822
	823

<u>schedule continues to be impacted, as described in division (E)</u>	824
<u>(3) of this section.</u>	825
(F) As used in this section, "maximum income eligibility	826
limit" means the amount of income specified in rules adopted	827
under division (A) of section 5104.38 of the Revised Code.	828
<b>Sec. 5104.38.</b> In addition to any other rules adopted under	829
this chapter, the director of children and youth shall adopt	830
rules in accordance with Chapter 119. of the Revised Code	831
governing financial and administrative requirements for publicly	832
funded child care and establishing all of the following:	833
(A) Procedures and criteria to be used in making	834
determinations of eligibility for publicly funded child care	835
that give priority to children of families with lower incomes	836
and procedures and criteria for eligibility for publicly funded	837
protective child care or homeless child care. The rules shall	838
specify the maximum amount of income a family may have for	839
initial and continued eligibility. The maximum amount shall not	840
exceed three hundred per cent of the federal poverty line. The	841
rules may specify exceptions to the eligibility requirements in	842
the case of a family that previously received publicly funded	843
child care and is seeking to have the child care reinstated	844
after the family's eligibility was terminated.	845
(B) A schedule of fees requiring all eligible caretaker	846
parents to pay a fee for publicly funded child care according to	847
income and family size, which shall be uniform for all types of	848
publicly funded child care, except as authorized by rule, and,	849
to the extent permitted by federal law, shall permit the use of	850
state and federal funds to pay the customary deposits and other	851
advance payments that a provider charges all children who	852
receive child care from that provider.	853

- (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 (00) (3) of~~ section 5104.01 of the Revised Code;
- (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;
- (K) If the director establishes a different payment rate

under division (E) (3) (d) of section 5104.30 of the Revised Code, 882  
standards and procedures for determining the amount of the 883  
higher payment that is to be issued to a child care provider 884  
based on the special needs of the child being served; 885

(L) To the extent permitted by federal law, procedures for 886  
enrolling and paying for up to thirty days of child care for a 887  
child whose caretaker parent is seeking employment, taking part 888  
in employment orientation activities, or taking part in 889  
activities in anticipation of enrolling in or attending an 890  
education or training program or activity, if the employment or 891  
the education or training program or activity is expected to 892  
begin within the thirty-day period; 893

(M) Any other rules necessary to carry out sections 894  
5104.30 to 5104.43 of the Revised Code. 895

**Sec. 5104.45.** (A) Upon the written request of the director 896  
of children and youth or upon the attorney general's becoming 897  
aware of criminal or improper activity related to Chapter 5104. 898  
and the publicly funded child care program described in section 899  
5104.30 of the Revised Code, the attorney general shall 900  
coordinate with the director to determine an appropriate course 901  
of action in the matter, which may include an investigation 902  
conducted by the attorney general. If it is determined that an 903  
investigation is appropriate, the attorney general shall 904  
investigate the matter, which investigation may be conducted 905  
with the assistance of the superintendent of the bureau of 906  
criminal identification and investigation. 907

(B) As soon as practicable after the attorney general 908  
completes an investigation into the matter as described in 909  
division (A) of this section and that investigation yields 910  
credible findings of criminal or improper activity, which may 911

relate to waste, fraud, and abuse, the attorney general shall 912  
share the investigation's findings with the prosecuting attorney 913  
having jurisdiction of the matter. 914

(C) Not later than sixty days after the findings are 915  
shared, the prosecuting attorney shall indicate to the attorney 916  
general whether the prosecuting attorney intends to initiate and 917  
prosecute in any court or tribunal of competent jurisdiction in 918  
this state any necessary criminal or civil action relating to 919  
the matter. If the prosecuting attorney so indicates, the 920  
prosecuting attorney may initiate and prosecute any necessary 921  
criminal or civil action. 922

If the prosecuting attorney notifies the attorney general 923  
before the sixty days have elapsed that such a time period is 924  
not sufficient for determining whether to initiate and prosecute 925  
any necessary criminal or civil action, then not later than one 926  
hundred twenty days after the findings are shared, the 927  
prosecuting attorney shall indicate to the attorney general 928  
whether the prosecuting attorney intends to initiate and 929  
prosecute any necessary criminal or civil action. If the 930  
prosecuting attorney so indicates, the prosecuting attorney may 931  
initiate and prosecute any necessary criminal or civil action. 932

(D) If the prosecuting attorney indicates to the attorney 933  
general by either time period described in division (C) of this 934  
section that the prosecuting attorney will not initiate and 935  
prosecute any necessary criminal or civil action, then, as part 936  
of such indication, the prosecuting attorney shall share with 937  
the attorney general any information that the prosecuting 938  
attorney gathered when determining whether to initiate and 939  
prosecute an action. 940

(E) The attorney general may initiate and prosecute any 941

necessary criminal or civil action after either of the 942  
following: 943

(1) The prosecuting attorney shares the findings and 944  
information as described in division (D) of this section; 945

(2) The prosecuting attorney never indicates to the 946  
attorney general by a time period described in division (C) of 947  
this section whether the prosecuting attorney intends to 948  
initiate and prosecute an action. 949

When proceeding under this division, the attorney general, 950  
and any assistant or special counsel designated by the attorney 951  
general for that purpose, has all rights, privileges, and powers 952  
of prosecuting attorneys. The attorney general has exclusive 953  
supervision and control of all investigations and prosecutions 954  
initiated by the attorney general under this section. The 955  
forfeiture provisions of Chapter 2981. of the Revised Code apply 956  
in relation to any such criminal action initiated and prosecuted 957  
by the attorney general. 958

**Sec. 5104.53.** (A) As used in this section: 959

(1) "Family services program" has the same meaning as in 960  
section 5101.35 of the Revised Code. 961

(2) "IEP" has the same meaning as in section 3323.01 of 962  
the Revised Code. 963

(3) "Resource caregiver" has the same meaning as in 964  
section 5103.02 of the Revised Code. 965

(B) The early childhood education grant program is created 966  
in the department of children and youth. Subject to available 967  
funds, the program shall support and invest in early learning 968  
and development programs operating in this state by awarding 969

grants to programs that meet the conditions of this section in 970  
an amount that corresponds to the number of eligible children 971  
served by the programs. 972

(C) To be eligible for a grant under this section, an 973  
early learning and development program shall meet each of the 974  
following conditions: 975

(1) The program is rated through the step up to quality 976  
program established under section 5104.29 of the Revised Code at 977  
the tiered rating specified by the department in rules adopted 978  
under this section. 979

(2) The program provides early learning and development 980  
services to one or more preschool-age children described in 981  
division (D) of this section. 982

(3) The program meets any other eligibility condition 983  
specified by the department in rules adopted under this section. 984

(D) A preschool-age child who meets all of the following 985  
conditions, as determined by a county department of job and 986  
family services, is eligible to participate in the early 987  
childhood education grant program if a slot is available: 988

(1) Either the amount of the child's family income does 989  
not exceed two hundred per cent of the federal poverty line or 990  
the child meets one of the following conditions: 991

(a) An IEP has been developed for the child; 992

(b) The child is placed with a resource caregiver as 993  
described in Chapter 5103. of the Revised Code, with such 994  
placement documented by either a family case plan or kinship 995  
permanency incentive payments; 996

(c) The child is homeless as described in ~~division (V) of~~ 997

section 5104.01 of the Revised Code.	998
(2) The child is a citizen of the United States or a qualified alien.	999 1000
(3) The child meets any other eligibility condition specified by the department in rules adopted under this section.	1001 1002
(E) Any funds appropriated to the department for purposes of the early childhood education grant program shall be used as follows:	1003 1004 1005
(1) In each fiscal year, not more than two per cent of appropriated funds shall be used for program support and technical assistance.	1006 1007 1008
(2) Appropriated funds other than those described in division (E)(1) of this section shall be distributed to grant recipients.	1009 1010 1011
(F) In accordance with Chapter 119. of the Revised Code, the director shall adopt rules to implement this section and administer the early childhood education grant program, including rules addressing all of the following topics:	1012 1013 1014 1015
(1) Eligibility conditions and other requirements for participation in the grant program by early learning and development programs, including the tiered rating at which a program becomes eligible to participate;	1016 1017 1018 1019
(2) Eligibility conditions for children participating in the early childhood education grant program if a slot is available;	1020 1021 1022
(3) Standards, procedures, and requirements to apply for and distribute funds to participating early learning and development programs;	1023 1024 1025

(4) In the event funds are distributed in error under the 1026  
program, methods by which the department may recover those 1027  
funds. 1028

(G) The award of an early childhood education grant under 1029  
this section shall not be considered publicly funded child care 1030  
or a family services program. 1031

**Section 2.** That existing sections 5104.01, 5104.30, 1032  
5104.32, 5104.34, 5104.38, and 5104.53 of the Revised Code are 1033  
hereby repealed. 1034