

**STATE BOARD OF EDUCATION OF OHIO
MINUTES**

September 1, 2020
Special Meeting
Ohio Department of Education
25 South Front Street
Columbus, Ohio 43215

MEMBERS OF THE STATE BOARD OF EDUCATION

Stephen Dackin	Stephanie Dodd
Sarah Fowler Arthur	John Hagan
Linda Haycock	Kirsten Hill
Meryl Johnson	Jenny Kilgore
Laura Kohler	Paul LaRue
Mark Lamoncha	Martha Manchester
Charlotte McGuire	Antoinette Miranda
Nick Owens	Eric Poklar
Mike Toal	Lisa Woods

EX OFFICIO MEMBERS

Senator Peggy Lehner	Representative Don Jones
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SECRETARY

Paolo DeMaria
Superintendent of Public Instruction

The State Board convened virtually on Tuesday, September 1 for a special Board meeting to discuss and amend an emergency school-age child care rule to allow Ohio Department of Education-licensed school-age child care programs to operate during remote learning hours and authorize a new, temporary, pandemic school-age child care license.

STATE BOARD BUSINESS MEETING

President Kohler convened the Business meeting of the State Board of Education on Tuesday, September 1, at 9:00 a.m.

President Kohler asked the Recording Secretary to call the roll.

YES VOTES

Stephen Dackin	Stephanie Dodd
Sarah Fowler Arthur	John Hagan
Linda Haycock	Meryl Johnson
Jenny Kilgore	Laura Kohler
Paul LaRue	Mark Lamoncha
Martha Manchester	Charlotte McGuire
Antoinette Miranda	Nick Owens

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Eric Poklar
Lisa Woods

Mike Toal

Motion carried.

NOTE: Mrs. Hill joined the meeting after roll call.

President Kohler welcomed Board members and guests and led the Board in the Pledge of Allegiance.

REVIEW OF WRITTEN REPORTS AND ITEMS FOR VOTE

Wendy Grove, Ohio Department of Education, provided the following background information:
School Age Child Care:

Who Issues Licenses:

Ohio Department of Education (ODE) and Ohio Department of Job and Family Services (ODJFS) license different sectors of the early childhood and school age child care landscape.

State law requires the Ohio Department of Education meet or exceed Ohio Department of Job and Family Services rules. Ohio Revised Code 3301.53

Landscape of Licensing:

ODE Oversight - ORC 3301.52 – 59 and OAC 3301-32 & 3301-37

Setting:

- Public Schools
- Community Schools
- Educational Service Centers
- County Boards of Dev. Disabilities
- Joint Vocational Schools
- Chartered Non-Public Schools

License Types:

1. Preschool (B – 5/Not yet in K)
2. School-Age (5/in K – 15/18)

ODJFS Oversight - ORC 5104 and OAC 5101:2-12 – 5101:2-16

Setting:

- Programs not in one of the education settings listed

License Types:

1. Child Care Centers
2. Family childcare
3. In-Home Ades
4. Day Camps

All above are: (B – age 15/18)

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Actions since COVID-19 began:

- May 22 & 29: Director of Health allows childcares to reopen
 - May 29: ODJFS enacts new rules
 - June 9: ODE adopts new rules
- August 9: Governor lifts class size restrictions for childcares
 - Aug 9: ODJFS amends rules
 - Aug 10: ODE adopts amended rules
- August 25: Executive Order allows childcares to serve school-age children
 - Aug 25: ODJFS amends existing & enacts new rules
 - Sept 1: State Board of Education considers same for ODE

Actions Taken by State Board of Education to Date:

- Adopted two new rules to allow for operating programs with pandemic-specific health and safety guidelines (June 9)
 - 3301-37-03.1 (Preschool chapter, new rule)
 - 3301-32-06.1 (School-Age Child Care chapter, new rule)
- Updated these same rules to remove restriction for class sizes & update face covering requirements (August 10)

Today's Action:

Amend one rule: 3301-32-06.1 (School-Age Child Care)

- Allowing licensed ODE school age child care programs to serve children during remote learning
- Allowing non-licensed programs to become licensed under a Temporary Pandemic School Age Child Care license
- Aligns with ODJFS' 5101:2-12-02.2 and 02.3
- Will allow ODE programs to access Publicly Funded Child Care dollars for the time children are remote learning

Memorandum regarding today's action:

Ohio Revised Code 3301.53 requires the State Board of Education to establish minimum standards to be applied to school age child care programs that are consistent with and meet or exceed the requirements of rules adopted by the Ohio Department of Job and Family Services (ODJFS) for child care pursuant to ORC Chapter 5104, which regulates ODJFS programs.

Ohio Administrative Code (OAC) 5101:2-12-02.3 was adopted as an emergency rule by the Ohio Department of Job and Family Services (ODJFS) on August 25, 2020 to create a temporary pandemic school-age child care license, allowing new programs to operate and serve children during remote learning hours. This rule applies only to school-age childcare programs licensed by the Department under Chapter 3301-32 of the OAC, and not to preschool programs licensed by the Department under Chapter 3301-37 of the OAC. Therefore, the Department is requesting the adoption of only one rule at the meeting.

On June 9, 2020, the Board adopted OAC 3301-32-06.1 and OAC 3301-37-03.1, as emergency rules to align to the requirements of OAC 5101:2-12-02.2, which provided for transitional pandemic requirements for licensed child-care centers both for preschool programs and school-age programs. On August 10, 2020, the Board adopted OAC 3301-32-06.1 and OAC 3301-37-03.1, as emergency rules to align to the updated requirements of OAC 5101:2-12-02.2 adopted August 9, 2020.

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In order to meet or exceed the requirements of the new temporary pandemic school-age child care licensing rule adopted by ODJFS, staff recommends the adoption of revised OAC 3301-32-06.1/Transitional Pandemic Requirements for a Licensed School Child Program, which incorporates the temporary pandemic school-age licensing requirements of OAC 5101:2-12-02.3 by reference. This rule additionally expands the definition of school-age childcare to allow programs to operate during days or hours that children are participating in remote learning. This rule further clarifies that currently licensed school-age childcare programs may continue to operate under this expanded definition upon notice to the Department. For programs which do not currently hold a school age childcare license, this rule provides a means by which new programs may obtain the same temporary pandemic school-age childcare license created under ODJFS' rules.

These emergency rules are effective immediately upon issuance of the Governor's Executive Order and are in effect for 120 days.

Proposed Updates to 3301-32-06.1, Transitional Pandemic Requirements for a Licensed School Child Program. New language has been underlined.

(A) Notwithstanding Chapter 3301-32 of the Administrative Code, the program shall comply with rule 5101:2-12-02.2 of the Administrative Code, while in effect, with the following additions:

(1) All cleaning, sanitizing, and handwashing protocols shall be done in accordance with the Reset and Restart Planning Guide for Ohio Schools and Districts as found on the Department's website (education.ohio.gov).

(2) Upon notice to the Department, any program licensed under this chapter of the Administrative Code may operate during days or hours that children are participating in remote learning, until the governor of Ohio rescinds the state of emergency or June 30, 2021, whichever occurs first.

(B) Notwithstanding chapter 3301-32 of the Administrative Code, a school district board of education, county board of developmental disabilities, community school, or eligible nonpublic school may apply to the Department for a temporary pandemic school child program license. A program that is licensed under this rule may accept state or federal funds specified for school childcare in accordance with rule 3301-32-11 of the Administrative Code. To be issued and to maintain a temporary pandemic school child program license, an applicant must comply with rule 5101:2-12-02.3 of the Administrative Code and division (A)(1) of this rule.

(C) For the purposes of this rule, any reference in rule 5101:2-12-02.2 or 5101:2-12-02.3 of the Administrative Code that requires notice to the Department of Job and Family Services shall be construed as requiring notice to the Department of Education.

VOTING ON THE REPORT & RECOMMENDATIONS OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION

President Kohler called on Superintendent DeMaria for his report and recommendations.

President Kohler presented the following recommendation (Item 1):

1. RESOLUTION TO RECOMMEND THE EMERGENCY ADOPTION OF OHIO ADMINISTRATIVE CODE 3301-32-06.1 / TRANSITIONAL PANDEMIC REQUIREMENTS FOR A LICENSED SCHOOL CHILD PROGRAM

The State Board of Education (“Board”) **ADOPTS** the following Preambles and Resolutions:

Ohio Revised Code (ORC) Section 3301.53 requires the State Board of Education to establish minimum standards to be applied to school-age child care programs that are consistent with and meet or exceed the requirements of rules adopted by the Ohio Department of Job and Family Services for child day-care centers pursuant to ORC Chapter 5104.

Ohio Administrative Code (OAC) 5101:2-12-02.3 was adopted as an emergency rule by the Ohio Department of Job and Family Services (ODJFS) on August 25, 2020 to create a temporary pandemic school-age childcare license, allowing new programs to operate and serve children during remote learning hours. This rule applies only to school-age childcare programs licensed by the Department under Chapter 3301-32 of the OAC.

On June 9, 2020, the Board adopted OAC 3301-32-06.1 and OAC 3301-37-03.1, as emergency rules to align to the requirements of OAC 5101:2-12-02.2, which provided for transitional pandemic requirements for licensed child-care centers both for preschool programs and school-age programs. On August 10, 2020, the Board adopted OAC 3301-32-06.1 and OAC 3301-37-03.1, as emergency rules to align to the updated requirements of OAC 5101:2-12-02.2 made by ODJFS on August 8, 2020.

In order to meet or exceed the requirements of the new temporary licensing rule adopted by ODJFS, staff recommends the adoption of OAC 3301-32-06.1/Transitional Pandemic Requirements for a Licensed School Child Program, which incorporates the temporary pandemic school-age child care licensing requirements of OAC 5101:2-12-02.3 by reference. This rule additionally expands the definition of school-age childcare to allow programs to operate during days or hours that children are participating in remote learning. This rule further clarifies that currently licensed school-age childcare programs may continue to operate under this expanded definition upon notice to the Department. For programs which do not currently hold a school age childcare license, this rule provides a means by which new programs may obtain the same temporary pandemic school-age child care license created under ODJFS’ rules.

NOW, THEREFORE, BE IT RESOLVED, the Board approves adopting OAC 3301-32-06.1 in the form attached hereto, which shall be effective immediately upon issuance of an Executive Order by the Governor pursuant to ORC 119.03(G);

BE IT FURTHER RESOLVED, that the Superintendent of Public Instruction or his designee be, and hereby is, directed to file the rules with the proper agencies, and the same be made available upon request, without charge, to all persons affected by said rules; and

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BE IT FURTHER RESOLVED, that the Superintendent of Public Instruction be, and hereby is, directed to comply with ORC 119.03(G) as it pertains to emergency rules

It was Moved by President Kohler and Seconded by Mrs. Manchester that the above recommendation (Item 1) be approved.

Mrs. Fowler Arthur stated she had concerns with rule three incorporating additional restrictions of field trips, walking tours, and any activity taking place outside of the licensed facility.

President Kohler called for a roll call vote.

YES VOTES

Stephen Dackin	Stephanie Dodd
Sarah Fowler Arthur	John Hagan
Linda Haycock	Kirsten Hill
Meryl Johnson	Jenny Kilgore
Laura Kohler	Mark Lamoncha
Paul LaRue	Martha Manchester
Charlotte McGuire	Antoinette Miranda
Nick Owens	Eric Poklar
Mike Toal	Lisa Woods

Motion carried.

Mrs. McGuire Moved to adjourn the meeting. Mr. Dackin Seconded the motion.

The President requested a voice vote.

Motion carried.

President Kohler adjourned the meeting at 9:50 a.m.

ATTEST:



Laura Kohler
President
State Board of Education



Paolo DeMaria
Superintendent of Public Instruction

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Please note: Copies of the attachments referenced in the Minutes may be obtained by contacting the Office of Board Relations at the Ohio Department of Education at (614) 728-2754.