

## \*\*\*Proposed Revisions - February 14, 2022\*\*\*

### ~~5123:2-3-02~~ 5123-3-02 Licensed residential facilities - physical environment standards, fire safety, and emergency response planning.

#### (A) Purpose

This rule establishes minimum physical environment and safety standards to ensure that individuals living in residential facilities licensed in accordance with section 5123.19 of the Revised Code are provided a safe, healthy, and homelike living environment that meets their specific needs.

#### (B) Definitions

For the purposes of this rule, the following definitions apply:

- (1) "Adult" means an individual age eighteen and older.
- (2) "Business day" means a day of the week, excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.
- (3) "Child" means an individual less than age eighteen.
- (4) "Fire safety drill" means a documented simulation of the actions to be taken in response to a fire emergency.
- (5) "Individual" means a person with a developmental disability.
- (6) "Individual service plan" means the written description of services, supports, and activities to be provided to an individual and includes an "individual program plan" as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this rule.
- (7) "Intermediate care facility for individuals with intellectual disabilities" has the same meaning as in section 5124.01 of the Revised Code.
- ~~(8) "Licensee" has the same meaning as in section 5123.19 of the Revised Code.~~
- (8) "Operator" means ~~the licensee or an entity with which the licensee has established a contract for~~ the entity responsible for management of and provision of services at the residential facility.
- (9) "Physical evacuation" means that the individuals residing in the residential facility physically leave the facility or, in the case of a facility that is classified as I-1 or I-2 occupancy pursuant to section 308 of the Ohio building code, individuals residing in the facility must be moved to a separate fire area within the facility that is separated by a two-hour rated firewall.
- (10) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code.
- (11) "State/local authority" means:

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- (a) For fire safety, the state fire marshal's office or the local fire department; or
  - (b) For emergency response, a chapter of the "American Red Cross" or the county emergency management agency.
- (C) Physical environment standards and configuration
- ~~(1) The operator shall ensure that the residential facility remains in compliance with the feasibility, space, and usage requirements for residential facilities set forth in paragraphs (D) and (E) of rule 5123:2-3-08 of the Administrative Code. [No longer necessary as provisions of 5123:2-3-08 have been incorporated into this rule.]~~
- (1) The interior, exterior, and grounds of the residential facility shall be configured in a manner so that the residential facility: [From 5123:2-3-08.]
- (a) Is accessible to residents;
  - (b) Can accommodate the assessed needs and degree of ability of residents; and
  - (c) Provides for service delivery that is age-appropriate for residents.
- (2) All areas of the interior, exterior, and grounds of the residential facility and all electrical, plumbing, and heating systems of the residential facility shall be maintained in a clean and sanitary manner and in good repair at all times and adequate to meet the needs of the individuals.
- (3) All solid waste shall be disposed of immediately after production or shall be stored in leak-proof containers with tight-fitting covers which provide protection from animals, rodents, and insects until time of disposal. Such waste shall be disposed of through a public disposal service, a private contract service, or otherwise in accordance with the requirements of the Ohio department of health and any local regulations, rules, codes, or ordinances.
- (4) Disinfectants, pesticides, poisons, and other toxic substances shall be properly labeled and stored separate from food products. All substances defined as "hazardous substances" or which are labeled "warning," "caution," or "danger" shall be used in a manner that ensures the health and safety of individuals served in the residential facility.
- (5) Gasoline, kerosene, paints, and other flammable materials and liquids shall be stored in a safe manner and in accordance with the manufacturer's label. Storage of combustible and non-combustible materials shall not produce conditions that create a fire, safety, or health hazard.
- (6) No part of the residential facility shall be off limits to individuals except for staff quarters, bathrooms located in or adjacent to staff quarters, bedrooms of other individuals unless consent is given, and mechanical and boiler rooms or other areas of the facility that present a health or safety risk to an individual as identified in ~~his~~

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~~or her individual plan or the~~ individual service plan.

- (7) The residential facility shall provide for two means of egress remote from each other for each floor level, except basements which are not used as activity or program areas and are limited to laundry use and storage. [From 5123:2-3-08.]
- (8) Each building or part of a building and all utilities, sanitary facilities, and appliances shall be designed, constructed, and installed in compliance with applicable rules of the Ohio building code, the Ohio sanitary code, the Ohio fire code, and any county or municipal building, safety, and fire regulations or codes. [From 5123:2-3-08.]
- (9) The residential facility shall provide for parking spaces, curb cuts, walkways, exit/entry ramps, toilets, showers, tubs, sinks, doorways, and other features that facilitate accessibility. [From 5123:2-3-08.]
- (10) Only lead-free paints and finishes shall be used in the residential facility. [From 5123:2-3-08.]
- (11) The residential facility shall have sufficient rooms, offices, and other space, including storage space, needed by the operator, administrator, and staff to carry out the functions of the residential facility. [From 5123:2-3-08.]
- (12) The residential facility's address number shall be clearly visible from the street. [From 5123:2-3-08.]
- (13) The grounds and buildings of the residential facility shall not include any sign which labels the functions of the residential facility or the individuals who reside therein. [From 5123:2-3-08.]
- (14) The names of residential facilities and descriptions of the individuals residing in those facilities shall not convey treatment, body parts, illness, disability, or inactivity. A residential facility may not be referred to or use the words "hospital," "nursing home," or "rest home" in its name or letterhead. [From 5123:2-3-08.]
- (15) If the residential facility has an outside play area and serves children six years of age and younger who are ambulatory, the outside play area shall be enclosed by a fence with a height sufficient to prevent egress from the area. [From 5123:2-3-08.]
- (16) Swimming pools shall meet local and state requirements regarding construction, operation, and sanitation. [From 5123:2-3-08.]
- (17) Swimming pools on the grounds of residential facilities including residential facilities in apartment complexes, shall be used by individuals only in the presence of a person who holds "American Red Cross" or equivalent lifeguarding certificate or shallow water lifeguarding certificate if the pool is less than five feet deep, unless otherwise specified in the individual service plan. [From 5123:2-3-01.]

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### (18) An operator shall:

- (a) Annually obtain a fire inspection and if applicable, a water and sewer inspection, and provide the inspection to the department upon request. [From 5123:2-3-01.]
- (b) ~~The operator shall maintain~~ Maintain the heating system, and cooling system if applicable, of the residential facility in safe operating condition. The residential facility shall be maintained at a comfortable and healthy temperature based on the individuals' needs and desires.
- (c) ~~The operator shall take~~ Take measures to eliminate and prevent the presence of insects, rodents, and other vermin in and around the residential facility. Opened doors and windows shall be screened. The extermination of insects, rodents, and other vermin shall be done in such a manner as not to create a fire or other safety or health hazard.
- (d) ~~The licensee shall ensure~~ Ensure that sidewalks, escape routes, and entrances are free of obstacles and ice and snow.
- (e) If the residential facility has a gas furnace and/or gas water heater, maintain a carbon monoxide detector in accordance with the manufacturer's specifications. [From 5123:2-3-08.]

### (D) Space requirements and usage [From 5123:2-3-08.]

#### (1) Living area [From 5123:2-3-08.]

- (a) The residential facility shall have a minimum of eighty square feet of living area for each individual.
- (b) Living area includes, but is not limited to, living rooms, dining rooms, recreation or family rooms, and portion of kitchen floor space available for individual use.
- (c) Living area shall not include bedrooms, bathrooms, laundry rooms, closets, corridors, hallways, garages, and unfinished basements.

#### (2) Bedrooms [Includes provisions from 5123:2-3-08.]

- (a) No bedroom shall be occupied by more than two individuals.
- (b) No bedroom shall be occupied by individuals of the opposite sex unless both occupants are consenting adults or both occupants are less than age six.
- (c) No bedroom shall be occupied by an adult and a child unless the occupants are related to one another
- (d) Each bedroom occupied by one individual shall have a minimum of eighty square feet.

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- (e) Each bedroom occupied by two individuals shall have a minimum of one hundred twenty square feet.
- (f) If the bedroom is below the grade level of the residential facility, the room must have two means of egress, one of which may be a window provided the individual using the room can safely evacuate through the window.
- (g) Living rooms, dining rooms, entryways, closets, corridors, hallways, outside porches, unfinished attics, and unfinished basements shall not be used as bedrooms.
- (h) Each bedroom shall be adequately ventilated and have at least one outside window complete with a window treatment to provide adequate privacy for the individual.
- (i) Each bedroom occupied by individuals who are non-ambulatory shall be located on the first floor unless the residential facility has an automatic fire extinguishing system.
- (j) Bedrooms shall not be used as throughways to and from other areas of the residential facility.
- (k) An operator shall provide each individual with:
  - (i) ~~The operator shall provide each individual with a~~ A bed or crib that is clean, comfortable, sturdy, safe, and in good condition and appropriate for the individual's age and ability. Hideaway beds, roll away beds, sleeper sofas, and futons shall not be used.
    - (a) Cribs shall be used only for individuals less than age five. An individual needing to sleep in a crib shall sleep in a crib which is at least six inches longer than the individual's extended length.
    - (b) Side rails and/or bed enclosures shall be used only as approved in the ~~individual plan or~~ individual service plan.
    - (c) No individual shall sleep on an exposed mattress or on an exposed mattress cover. Waterproof mattress covers shall be provided for infants and individuals who are incontinent.
    - (d) The operator shall provide each individual with bedding appropriate to the weather and climate. Linens and bedding for each bed or crib shall be maintained to provide clean and sanitary sleeping accommodations for each individual.
  - (ii) ~~The operator shall provide each individual with closet~~ Closet and drawer space in ~~his or her~~ the individual's bedroom for in-season clothing and personal possessions with racks and shelves accessible to the individual.

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### (3) Kitchen and dining [From 5123:2-3-08.]

- (a) The residential facility shall have at least one area accessible to individuals used for the preparation and serving of food under sanitary conditions.
- (b) Each area used for dining shall have a minimum of fifteen square feet for each individual in the residential facility, not including the area generally recognized as counter and appliance space necessary for the normal preparation of meals.

### (4) Bathroom and laundry [From 5123:2-3-08.]

- (a) The residential facility shall provide bathrooms and plumbing fixtures, including grab rails where needed, appropriate for the age and degree of ability of the individuals.
- (b) All bathrooms and plumbing fixtures shall be in compliance with applicable state and local regulations, rules, codes, and ordinances.
- (c) The residential facility shall provide for toilet and bathing facilities at a minimum ratio of one to four, appropriate in size and design to meet the needs of the individuals. Toilet and bathing facilities shall be provided on each floor with bedrooms.
- (d) The residential facility shall provide for individual privacy in toilets, bathtubs, and showers.
- (e) Lavatories and bathing facilities shall be supplied with hot and cold running water maintained at a comfortable level for each individual to prevent injury.
- (f) Laundry services shall be accessible to the individuals and adequate to meet their needs.

### (E) Furnishings, equipment, and supplies

#### An operator shall:

- (1) ~~The operator shall provide~~ Provide the residential facility with safe, sanitary, comfortable, and homelike equipment, furniture, and appliances in good repair and appropriate for the age and ability of individuals.
- (2) ~~The operator shall provide~~ Provide a means (e.g., telephone, wireless telephone, or computer) for communicating with others to which individuals have free access at all times and in a manner that affords an individual privacy.
- (3) ~~The operator shall ensure~~ Ensure a sufficient supply of soap and basic toiletries (i.e., deodorant, shampoo, oral hygiene items, and feminine hygiene products), toilet paper, clean towels and washcloths, and first aid supplies is available to meet the needs of the individuals.

### (F) Fire safety ~~plan~~ and emergency response ~~plan~~

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- (1) Each residential facility shall have a fire safety ~~plan~~ and ~~an~~ emergency response plan ~~that are~~ approved by the state/local authority that at a minimum addresses the actions to be taken in the event of a fire, tornado, or other natural disaster.
  - (a) The ~~fire safety~~ plan shall include, but is not limited to:
    - (i) A policy that addresses smoking regulations and the storage of combustible materials;
    - (ii) A fire safety training program that includes provisions for rescue, alarm, containment, and evacuation;
    - ~~(iii) Designation of meeting places in case of a physical evacuation of the residential facility; and~~
    - ~~(iv) A procedure for permitting re-entry to the residential facility following a fire safety drill and/or physical evacuation.~~
  - ~~(b) The emergency response plan shall include, but is not limited to:~~
    - ~~(iii) Designating a tornado shelter or safe area in the residential facility and the procedure for accessing the area;~~
    - ~~(iv) Responses to fires, weather-related emergencies, or other disasters when relocation of individuals is not required; and~~
    - ~~(v) Responses to fires, weather-related emergencies, or other disasters when relocation of individuals is required, including designation of a pre-arranged evacuation site place to meet in case of a physical evacuation of the residential facility.~~
    - (vi) A procedure for permitting re-entry to the residential facility following a fire safety drill and/or physical evacuation.
  - (b) The residential facility shall share the plan with the county board of developmental disabilities.
- (2) A current graphic floor plan shall be posted unobstructed on each floor of the residential facility and in an area most appropriate for the posting of staff information. The graphic floor plan shall include, but is not limited to:
  - (a) A primary and secondary means of exit from each floor;
  - (b) The location of pull stations and fire control system panels, when applicable;
  - (c) Fire escapes;
  - (d) The telephone number of the local fire department or "911";
  - (e) Designated tornado shelter or safe area; and

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- (f) Designated meeting places in case of fire.
- (3) No exit, stairway, corridor, ramp, elevator, fire escape, or other means of exit from a building shall be used for storage purposes or be otherwise obstructed from use.
- (4) A fire extinguisher approved by the state/local authority shall be located on each floor and in the natural path of escape from a fire, at readily accessible and visible points which are not likely to be obstructed.
- (5) Each residential facility with six or more individuals shall be equipped with:
  - (a) An automatic sprinkler system meeting the requirements of "National Fire Protection Association" 13-D, "Sprinkler Systems in One and Two Family Dwellings." The sprinkler system shall be interconnected with the smoke and fire detection and alarm system.
  - (b) An automatic sprinkler system meeting the requirements of "National Fire Protection Association" 13, "Standard for the Installation of Sprinkler Systems," when a residential facility has seventeen or more individuals, or when a residential facility with six to sixteen individuals cannot be physically evacuated in twelve minutes or less. The sprinkler system shall be interconnected with the smoke and fire detection and alarm system. A new residential facility with six to sixteen individuals classified as I-1 occupancy pursuant to section 308 of the Ohio building code on or after May 18, 1995, shall be required to have a sprinkler system meeting the requirements of "National Fire Protection Association" 13-R, "Installation of Sprinkler Systems in Residential Occupancies Up to Four Stories in Height."
  - (c) A smoke and fire detection and alarm system meeting the requirements of "National Fire Protection Association" 72, "National Fire Alarm Code," depending upon the nature of the physical facility involved and such other standards as required by the appropriate building and fire officials.
  - (d) Fire alarm pull stations near each main exit and in the natural path of escape from a fire, at readily accessible and visible points which are not likely to be obstructed.
- (6) Each residential facility with five or fewer individuals shall be equipped with:
  - (a) At least a single station smoke detector on each floor of the facility. Each smoke detector shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping. Where sleeping rooms are on an upper level, the smoke detector shall be placed at the center of the ceiling directly above the stairway. All smoke detectors shall be installed and maintained in accordance with the manufacturer's recommendations. When the smoke detectors are wall-mounted, they shall be located within twelve inches, but no closer than four inches, of the ceiling. Installation shall not interfere with the operating characteristics of the smoke detector. When



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activated, the smoke detector shall provide an alarm audible in the residential facility.

- (b) An approved fire alarm system, which includes bells, sirens, horns, lights, or other equipment as may be appropriate, when services are provided to individuals who are visually and/or hearing impaired.
- (c) An automatic sprinkler system meeting the requirements of "National Fire Protection Association" 13-D, "Sprinkler Systems in One and Two Family Dwellings," and a smoke detection system as required by paragraph (E)(6)(a) of this rule when the residential facility cannot be physically evacuated in three minutes or less.
- (7) The operator shall ensure that all sprinkler systems, fire alarms, extinguishing systems, and other safety equipment are properly maintained.
- (8) The department may utilize the "National Fire Protection Association 101: Life Safety Code" (~~2011~~ [2021](#) edition) to determine if additional life safety requirements are needed.
- (9) The operator shall conduct and document at least three fire safety drills in a twelve-month period with one conducted during the morning, one conducted during the afternoon or evening, and one conducted during the time when individuals are routinely asleep.
- (10) The operator shall conduct and document at least one tornado drill in a twelve-month period.
- (11) Fire safety drills and tornado drills may be announced or unannounced and shall be conducted in accordance with the assessed needs of individuals as identified in their ~~individual plans or~~ individual service plans.
- (12) Residential facility staff shall be trained in fire safety, operation of fire safety equipment and warning systems, and emergency response plan in accordance with rule ~~5123:2-3-01~~ [5123-3-01](#) of the Administrative Code.
- (13) Each individual shall participate in documented training of the residential facility's fire safety plan and emergency response plan within thirty calendar days of residency and at least once during every twelve-month period thereafter. The training shall be appropriate for the individual's needs based on the results of an assessment.
- (14) Except at an intermediate care facility for individuals with intellectual disabilities, individuals may be trained to assist one another in case of fire or other emergency to the extent their abilities permit without additional personal risk and as indicated in their ~~individual plans or~~ individual service plans.

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~~(15) The operator shall report to the department within one business day any fire to which a local fire department responded.~~

~~(16) The operator shall report to the department within one business day when an emergency requires the operator to relocate individuals from the residential facility~~

(15) An operator shall:

(a) Report to the department within one business day any fire to which a local fire department responded.

(b) Notify each individual's family member or guardian, as applicable, as soon as possible when an emergency requires the operator to relocate individuals from the residential facility.

(c) Report to the department and the county department of job and family services within one business day when an emergency requires the operator to relocate individuals from the residential facility and, in the case of an intermediate care facility for individuals with intellectual disabilities, also notify the Ohio department of health district office and the Ohio department of medicaid.

(d) Provide weekly updates to the department about individuals who have been relocated due to an emergency until individuals return to the residential facility or permanently relocate to another residential setting.