

173-39-05

ODA provider certification: disciplinary actions.

(A) Introduction: Pursuant to section 173.391 of the Revised Code, ODA or its designee may impose disciplinary action against an ODA-certified provider (provider) for good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct ODA determines is injurious, or poses a threat, to the health or safety of individuals being served.

(B) Disciplinary actions by ODA's designee:

(1) Disciplinary actions imposed by ODA's designee may include any one or more of the following:

(a) Plan of correction or evidence of compliance: ODA's designee may require the provider to provide a plan of correction or evidence of compliance with all areas of non-compliance within ~~seven~~ seven business days after the disciplinary action is imposed.

~~(b) Evidence of compliance: ODA's designee may require the provider to provide evidence of compliance according to the following deadlines:~~

~~(i) Health or safety: If the non-compliance is injurious or poses a threat to the health or safety of individuals being served, the provider shall provide evidence of compliance within five days after the disciplinary action is imposed.~~

~~(ii) Non health or safety: If the non-compliance is not injurious or poses no threat to the health or safety of individuals being served, the provider shall provide evidence of compliance within sixty days after the disciplinary action is imposed.~~

~~(c)~~ (b) Suspending referrals: ODA's designee may cease to refer individuals to the provider until ODA's designee determines the provider complies with all requirements in this chapter.

(c) Remove clients: ODA's designee may revise the person-centered services plans for individuals to stop authorizing the non-compliant provider as a provider for those individuals.

(2) When ODA's designee imposes a disciplinary action, it shall do the following:

(a) Notify the provider of the disciplinary action via encrypted email or mail.

(b) Notify ODA of the disciplinary action via an ODA-approved method.

- (c) Complete the required fields in ~~ODA's provider information management system~~ PIMS related to the disciplinary action.
- (d) Indicate in ~~ODA's provider information management system~~ PIMS anytime it grants an extension to the deadlines in paragraph (B)(1)(a) or (B)(1)(b) of this rule.
- (3) ODA's designee does not have authority to impose more than one disciplinary action against a provider for the same episode of non-compliance.
- (4) ODA's designee may follow-up with the provider to verify compliance in the area of non-compliance. Follow-up may include site visits, requesting supplemental information, or reviewing records.
- ~~(4)~~(5) ODA may require ODA's designee to rescind or modify any pending disciplinary action.

(C) Disciplinary actions imposed by ODA:

- (1) ODA may impose any discipline authorized ~~in~~ under division (A)(2) of section 173.391 of the Revised Code, including the following:
 - ~~(a) Plan of correction.~~
 - ~~(b) Evidence of compliance.~~
 - ~~(c) Suspension of referrals.~~
 - ~~(d) Removal of clients.~~
 - ~~(e) Fiscal sanctions, including a civil monetary penalty or an order that unearned funds be repaid.~~
 - ~~(f) Suspension of certification.~~
 - ~~(g) Permanent revocation of certification.~~
 - ~~(h) Another disciplinary action.~~
- (2) ODA may consider any one or more of the following when imposing disciplinary action:
 - (a) Whether the conduct is injurious or poses a threat to the health or safety of individuals being served.

(b) The provider's previous disciplinary history.

(c) Any other factors ODA may consider relevant.

(D) A provider may appeal a disciplinary action listed in column B of table 1 to this rule unless the reason for the disciplinary action is listed under division (E) of section 173.391 of the Revised Code. As used in table 1 to this rule, "another sanction" does not include any of the disciplinary actions listed in column A of the table.

Table 1

COLUMN A	COLUMN B
Written warning	Fiscal sanction such as a civil monetary penalty or an order to repay unearned funds
Requirement to submit a plan of correction or provide evidence of compliance	Suspended certification
Suspended referrals	Revoked certification
Removal of clients	Another sanction

(E) The provider may request a hearing under Chapter 119. of the Revised Code only if it does ~~so within thirty days after the mailing date of the notice~~ before the deadline in that chapter.

~~(F) If any deadline in this rule occurs on a Saturday, Sunday, or legal holiday under section 1.14 of the Revised Code, the deadline is extended to the next day that is not a Saturday, Sunday, or legal holiday under section 1.14 of the Revised Code.~~

Effective:

Five Year Review (FYR) Dates: 3/26/2024

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 121.07, 173.01, 173.02, 173.391, 173.52, 173.522,
173.54, 173.543

Rule Amplifies: 173.39, 173.391, 173.52, 173.522, 173.54, 173.543; 42
C.F.R. 441.352

Prior Effective Dates: 03/31/2006, 08/30/2010, 06/30/2011, 09/29/2011,
01/01/2013, 01/01/2020, 07/02/2023