

5101:2-5-18

Waivers and variances.

- (A) The granting of a waiver of any requirement imposed by Chapters 5101:2-1, 5101:2-5, 5101:2-7, 5101:2-9, 5101:2-39, and 5101:2-42 of the Administrative Code is a discretionary act of the Ohio department of job and family services (ODJFS) based upon documentation as to why the agency or foster caregiver is not in compliance. The refusal of ODJFS to grant a waiver, in whole or in part, shall be final and shall not be construed as creating any rights to a hearing under Chapter 119. of the Revised Code. Waivers shall only be requested, and will be considered on a case by case basis, for the following:
- (1) A waiver of the seventy-two consecutive hour limitation for a children's crisis care facility to provide residential care to a preteen placed in the facility by a public children services agency (PCSA) or private child placing agency (PCPA). The waiver may authorize the certified children's crisis care facility to provide residential care to the preteen for up to fourteen consecutive days.
 - (2) Relative foster homes when the request is for a non-safety issue.
 - (3) A private, nonprofit therapeutic wilderness camp (PNTWC).
 - (4) A temporarily established residential facility as defined in section 5103.05 of the Revised Code as a result of the COVID-19 state of emergency declared under Executive Order 2020-01D to ensure safe placements are available for children of parents impacted by the pandemic and children in the custody of a PCSA. Waivers granted under this subparagraph expire one hundred twenty days after the effective date of this emergency rule. Programs approved under the waiver authority established by this subparagraph are to meet all applicable regulatory requirements within thirty days of the emergency rule expiration in order to continue certification after that date.
- (B) A request for a waiver shall be written and time limited. A waiver request shall include sufficient information, including the time period for which the waiver is requested. The time limit of a waiver shall not exceed the expiration date of the current certificate. Upon the written request of an agency, a waiver may be renewed, at the discretion of ODJFS, contingent upon documentation to ODJFS of the efforts of the agency or foster caregiver to come into compliance and the reasons they have not come into compliance.
- (C) A request for a waiver of the requirements or prohibitions imposed by Chapters 5101:2-1, 5101:2-5, 5101:2-9, 5101:2-39, and 5101:2-42 of the Administrative Code on an agency's administration shall be written using the JFS 01376 "Rule Waiver Request for Agencies, CRCs and Group Homes" (rev. 12/2006) and submitted to the appropriate ODJFS field office.

- (D) A request for a waiver of the requirements or prohibitions imposed upon a foster home or a foster caregiver by Chapters 5101:2-1, 5101:2-7, 5101:2-39, and 5101:2-42, of the Administrative Code and related foster home provisions of Chapter 5101:2-5 of the Administrative Code shall be written using the JFS 01317 "Recommendation for Certification/Recertification of a Foster Home" (rev. 1/2003) and submitted to ODJFS, office of families and children.
- (E) If an agency has access to the statewide automated child welfare information system (SACWIS), the agency shall complete a waiver request for a foster home through the system. If an agency requests a foster home waiver through SACWIS, the agency shall not complete the JFS 01317. If an agency does not have access to SACWIS, the agency shall complete the JFS 01317.
- (F) The approval of a waiver request by ODJFS shall not be construed as constituting precedence for the approval of any other waiver request or the renewal of an existing waiver.
- (G) Waiver requests that have been approved prior to the effective date of this rule shall remain in effect until the waiver expires unless the terms or conditions of the waiver are violated or otherwise become nullified by a situation or by a change in the applicable Administrative Code rule.
- (H) Effective October 1, 2011, no variances shall be approved.
- (I) Variance requests that have been approved prior to October 1, 2011 shall remain in effect unless the terms or conditions of a variance are violated or otherwise become nullified by a situation or by a change in the applicable Administrative Code rule. If the variance is nullified, it shall be rescinded. ODJFS has sole discretion in the rescission of a variance. The rescission of a variance shall not be construed as creating any rights to a hearing under Chapter 119. of the Revised Code.

Effective: 4/21/2020

CERTIFIED ELECTRONICALLY

Certification

04/21/2020

Date

Promulgated Under: 119.03
Statutory Authority: 5103.02, 5103.03
Rule Amplifies: 5103.02, 5103.03 , 5103.54
Prior Effective Dates: 12/30/1966, 10/01/1986, 07/02/1990 (Emer.),
10/01/1990, 01/01/1991, 09/18/1996, 05/01/1998,
07/01/2000, 01/01/2003, 12/11/2006, 10/01/2011,
07/07/2014, 07/01/2016