

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) Relative foster homes when the request is for a non-safety issue. As used in this rule, relative has the same meaning as kin.
  - (2) A private, nonprofit therapeutic wilderness camp (PNTWC).
  - (3) A scholars residential center.
  - (4) An agency may request a waiver for a foster home in the event of a disaster or emergency where the home or part of the home becomes uninhabitable.
- (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" 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 requested through the statewide automated child welfare information system (SACWIS).
- (E) 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.

- (F) 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.
- (G) Effective October 1, 2011, no variances shall be approved.
- (H) 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: 1/1/2024

Five Year Review (FYR) Dates: 6/15/2025

CERTIFIED ELECTRONICALLY

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Certification

12/18/2023

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Date

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