

5101:2-12-05

Denial, revocation and suspension of a licensed child care center application or license.**(A) What does "owner" mean?**

(1) For purposes of paragraphs (C) and (E) of this rule, "owner" is defined in rule 5101:2-12-01 of the Administrative Code, except that "owner" also includes a firm, organization, institution or agency, as well as any individual governing board members, partners, or authorized representatives of the owner as defined in section 5104.03 of the Revised Code.

(2) For all other paragraphs of this rule, "owner" is as defined in rule 5101:2-12-01 of the Administrative Code.

(A)(B) What are the reasons an applicant may have an application denied or a licensed child care center may have a provisional or continuous license revoked?

(1) The center is not in compliance with Chapter 5101:2-12 of the Administrative Code or Chapter 5104. of the Revised Code.

(2) The owner or administrator has been determined not eligible ~~for employment to own a child care program or to be employed in a child care program~~ as a result of the background check requirements pursuant to rule 5101:2-12-09 of the Administrative Code.

(3) The center fails to submit documentation or information requested by the Ohio department of job and family services (ODJFS) within required time frames.

(4) The center has refused to allow ODJFS staff access onto its premises or to any area used for child care.

(5) The center has furnished or made misleading or false statements or reports to ODJFS.

~~(6) The center has accumulated eighteen or more points from moderate or serious risk non-compliances in accordance with appendix A to rule 5101:2-12-03 of the Administrative Code during the provisional period.~~

~~(7)~~(6) Failure of any person, firm, partnership, organization, institution, or agency to cooperate with the ODJFS or any state or local official when performing duties required by Chapter 5104. of the Revised Code and Chapter 5101:2-12 of the Administrative Code.

(B)(C) What happens if an application is in the process of being denied or a provisional or continuous license is in the process of being revoked?

- (1) If an application for a child care center, type A home or type B home has been issued a notice of intent to deny, no new application for a child care center license shall be processed for the owner until after the completion of the denial process.
- (2) If a provisional or continuous license for a child care center, type A home or type B home has been issued an intent to revoke, no new application for a child care center license shall be processed for the same owner until after the completion of the revocation process.
- (3) If the child care center has been issued a notice of intent to revoke the program's license, the center is to notify the families of all enrolled children and post the notice of intent in a noticeable location within forty-eight hours of receipt of the notice.

~~(C)~~(D) What if a center voluntarily surrenders the license or voluntarily withdraws the application during the revocation or denial process?

The voluntary surrender of a license or the withdrawal of an application for licensure shall not prohibit ODJFS from revoking a license or denying an application.

~~(D)~~(E) What happens if an application has previously been denied, or a provisional or continuous license, or an in-home aide certification is revoked?

- (1) If a license of a child care center, type A home, or type B home is revoked, another license shall not be issued to the owner of the center, type A home, or type B home until five years have elapsed from the date the license was revoked.
- (2) If an application for a child care center, type A home, or type B home license is denied, the applicant shall not be licensed until five years have elapsed from the date the application was denied.

~~(3) If an owner/applicant was previously certified by the county agency and that certification was revoked for a health and safety reason, he or she shall not be licensed until five years have elapsed from the date the certification was revoked.~~

~~(4)~~(3) If the certification of an in-home aide is revoked, the applicant shall not be issued a child care center license until five years have elapsed from the date the certification was revoked.

~~(E)~~(F) Which licensing actions by ODJFS give the center rights to an adjudicatory hearing, in accordance with the requirements of Chapter 119. of the Revised Code?

- (1) Denial of an application.
- (2) Revocation of an existing license, either provisional or continuous.
- (3) The finding of jurisdiction in accordance with rule 5101:2-12-01 of the Administrative Code.
- (4) Issuance of a license with authorization for license capacity which does not agree with the authorization sought by the center.
- (5) Denial of a continuous license at the expiration of the center's provisional license.

~~(F)~~(G) When can ODJFS suspend a license?

ODJFS may immediately suspend the license of a center if ODJFS determines that any of the following have occurred:

- (1) A child dies or suffers a serious injury while receiving child care by the center.
- (2) A public children services agency (PCSA) accepts a complaint of abuse or neglect pursuant to section 2151.421 of the Revised Code on any of the following people:
 - (a) The center owner or owner's representative.
 - (b) The center administrator, if the administrator has not been released from employment or put on administrative leave.
 - (c) An employee of the center, if the employee has not been immediately released from employment or put on administrative leave.
- (3) Any of the following people have been charged by indictment, information, or complaint with an offense relating to the abuse or neglect of a child:
 - (a) The center owner or owner's representative.
 - (b) The center administrator, if the administrator has not been released from employment or put on administrative leave.
 - (c) An employee of the center, if the employee has not been released from employment or put on administrative leave.
- (4) ODJFS or a county agency determines that the center created a serious risk to the health or safety of a child receiving child care in the center that resulted in or could have resulted in a child's death or injury.

- (5) ODJFS determines that the owner or licensee of the center does not meet the requirements of section 5104.013 of the Revised Code.

~~(G)~~(H) What happens if a center's license is suspended?

- (1) Upon receipt of a written suspension order from ODJFS, delivered either by certified mail or in person, the center shall:
- (a) Immediately stop providing care to all children.
 - (b) Provide written notification of the suspension to the parents of all children enrolled in the center.
- (2) Refusal of delivery by personal service or by mail is not failure of delivery and service shall be deemed to be complete.

~~(H)~~(I) Can the center request a review of the decision to suspend the license?

The center may request an adjudicatory hearing before the department pursuant to sections 119.06 to 119.12 of the Revised Code.

~~(I)~~(J) How long will the license be suspended?

The suspension shall remain in effect until any of the following occurs:

- (1) The PCSA completes its investigation pursuant to section 2151.421 of the Revised Code and determines that all of the allegations are unsubstantiated.
- (2) All criminal charges are disposed of through dismissal or a finding of not guilty.
- (3) Pursuant to Chapter 119. of the Revised Code, ODJFS issues a final order terminating the suspension.

~~(J)~~(K) Which ODJFS licensing actions, ministerial in nature, are not subject to an administrative hearing?

- (1) Rejection by ODJFS of any application for a license for procedural reasons such as, but not limited to, improper fee payment, incomplete submission of required materials or use of invalid forms.
- (2) Denial of an application pursuant to paragraph ~~(D)~~(E) of this rule.
- (3) Closing a license that has been in a temporary closure for more than twelve months pursuant to rule 5101:2-12-02 of the Administrative Code.

(4) Closing a license if the child care center is no longer located at the address on the license and the owner has not requested a change of location or closure pursuant to rule 5101:2-12-02 of the Administrative Code.

(5) Closing a license if the owner of the child care center has changed.

~~(K) What does "owner" mean?~~

~~(1) For the purposes of paragraphs (B) and (D) of this rule, "owner" is as defined in rule 5101:2-12-01 of the Administrative Code, except that "owner" also includes a firm, organization, institution, or agency, as well as any individual governing board members, partners, or authorized representatives of the owner.~~

~~(2) For all other paragraphs of this rule, "owner" is as defined in rule 5101:2-12-01 of the Administrative Code.~~

Effective:

Five Year Review (FYR) Dates: 7/28/2021

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5104.015, 5104.042
Rule Amplifies: 5104.015, 5104.04, 5104.042
Prior Effective Dates: 03/01/1981, 09/01/1986, 01/02/1992 (Emer.),
04/01/1992, 04/01/2003, 09/01/2007, 08/14/2008,
09/29/2011, 10/25/2015, 11/01/2015, 12/31/2016,
10/29/2017, 12/01/2019