



## Ohio Administrative Code Rule 3301-32-11 Licensure and monitoring.

Effective: June 22, 2015

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(A) All school districts, county boards of DD, and eligible nonpublic schools accepting state or federal funds specifically for school child care and/or child day care pursuant to Chapter 5104. of the Revised Code shall be licensed. School districts, county boards of DD, and eligible nonpublic schools not accepting state or federal funds specifically for child day care, but who wish to obtain a license for a school child program, shall file an application with the department in accordance with sections 3301.58 and 3301.59 of the Revised Code to obtain a twelve-month provisional license issued by the department.

(B) An application shall be considered to be filed with the department as of the date the application is received. Any receipted application submitted without complete and/or accurate information must be amended with complete and/or accurate information before a license can be issued.

(C) A license or provisional license is valid only for the licensee, the address, and capacity for each school child program site designated on the license.

(1) Prior to any change in the address of the program site or license capacity designated on the license, the licensee shall forward written notice of the proposed change and verification of compliance for the proposed change; and

(2) Upon approval of the proposed change, an amended license shall be issued by the department.

(D) Upon the filing of an application for an initial license, the department shall investigate and inspect the school child program to determine whether the requirements of sections 3301.52 to 3301.59 of the Revised Code and Chapter 3301-32 of the Administrative Code are met. The department shall provide a written inspection report to the superintendent within a reasonable time after each inspection prior to the issuance of a license.

(E) The department shall determine that the school child program site is in compliance with all



applicable requirements by examination of the following:

- (1) The completed application;
- (2) The program's physical plant through on-site inspection and proposed operational format at the time of initial application or renewal application; and
- (3) Any other documentation as required by Chapter 3301-32 of the Administrative Code.

(F) When, following the investigation and inspection, the department has determined that all requirements have been satisfied, the department shall issue a provisional license for a period of not more than twelve months from the date of approval of the license. Within the twelve-month provisional period, the program shall be inspected at least once by the department to determine whether the requirements of sections 3301.52 to 3301.59 of the Revised Code and Chapter 3301-32 of the Administrative Code are being met. If the program's operation is judged to be in compliance and has met all requirements prior to the end of the twelve-month period, the provisional license shall be amended to regular licensure at the end of the provisional period.

(G) When the department determines that a program is out of compliance with the requirements of Chapter 3301-32 of the Administrative Code, the department shall notify the superintendent and program coordinator. The written notification shall include the following:

- (1) A statement of the alleged violation;
- (2) What must be done to correct any violation; and
- (3) The date by which any correction must be completed.

(H) The following are identified as "serious risk" violations of a license due to the great risk of harm to children:

- (1) Children left unsupervised pursuant to the requirements of this chapter, or left unattended outside of a facility building or during a swimming party;



- (2) Children left unattended on a field trip or in a vehicle, or transportation policies not followed;
- (3) Falsified information is submitted that puts children at risk;
- (4) Program fails to report suspected abuse/neglect/endangering;
- (5) Administration of medication procedures do not meet the requirements of this chapter, or medication is dispensed to the wrong child or the wrong dosage is administered;
- (6) Evidence of physical punishment or physical or verbal abuse is verified, or physical abuse/neglect/endangerment is substantiated by public children's services findings, or involvement of staff in inappropriate discipline.
- (7) Employee refuses to be fingerprinted and remains employed, or a person remains employed with a known prohibited conviction;
- (8) Swimming activity takes place without a life guard, or a life guard is used to count in the ratio, or a swimming site is accessible to children without staff supervision, or swimming activity takes place in lakes ponds and rivers;
- (9) Firearms are on the premises without proper approval;
- (10) The department or representatives of the department are denied access to conduct a rule compliance review pursuant to this chapter.
- (I) Any entity with serious risk violations shall immediately report the violation to the department and provide documentation of correction.
- (J) If the department revokes a license or refuses to renew a license of a school district, county board of DD, or eligible nonpublic school, it shall not issue a license to the facility within five years from the date of revocation of a license or refusal to renew a license.



(K) All actions of the department with respect to licensing a school child program's facility, renewing a license, refusal to license or renew a license, and revocation of a license, shall be in conformity with sections 3301.57 and 3301.58 and Chapter 119. of the Revised Code.

(1) Those licensing actions, which shall be afforded the right to an administrative hearing, include the following:

(a) The proposal to deny an initial or standard license;

(b) The proposal to revoke an existing license, be it provisional or a standard license; or

(c) The proposal to deny a standard license at the expiration of a provisional license.

(2) Those licensing actions that are of an administrative nature shall not be afforded the right to an administrative hearing. These actions include rejection of any application for licensure for procedural reasons such as, but not limited to, incomplete submission, use of an invalid form, failure to make information available to the department, or failure to make information available during an inspection.

(L) A request for an administrative hearing pursuant to Chapter 119. of the Revised Code and Chapter 3301-32 of the Administrative Code shall be submitted to the department of education's office of early learning and school readiness, and shall be considered to have been made as of the date received.

(M) The department may deny or revoke a license, or refuse to renew a license, if it is determined that the applicant knowingly made a false statement on the application, does not comply with the requirements of Chapter 3301-32 of the Administrative Code, or has pleaded guilty or has been convicted of an offense described in section 3301.541 of the Revised Code.

(N) Each program shall be inspected at least once during every twelve-month period of operation, which may be unannounced.

(O) A plan to correct deficiencies shall be prepared and submitted to the department.



(P) On-site verification may be conducted to review progress regarding the correction of deficiencies.

(Q) An extension of the timeline or alternate means for correction of deficiencies may be filed with and approved by the department.

(R) The department, upon receiving a complaint or otherwise being advised that a school district, county board of DD, or eligible nonpublic school is providing a school child program as described in paragraph (A) of rule 3301-32-11 of the Administrative Code without a license, shall conduct an investigation of the program for the purpose of verifying licensure. The department may inspect primary space and other areas necessary for the care of children during the program's suspected hours of operation.

(S) The department, upon determining that a school district, county board of DD, or eligible nonpublic school as described in paragraph (A) of rule 3301-32-11 of the Administrative Code is operating a school child program without a license, shall, pursuant to section 3301.57 of the Revised Code, notify the attorney general, the prosecuting attorney of the county in which the program is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the program is located, that the school district, county board of DD, or eligible nonpublic school is operating a program without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the program is located, requesting that the court grant an order enjoining the owner from operating the program. The department may petition for injunctive relief in the following instances:

(1) Against a school district, county board of DD, or eligible nonpublic school described in paragraph (A) of rule 3301-32-11 of the Administrative Code that is operating a program for which it has not made application for licensure, or against a school district, county board of DD, or eligible nonpublic school that has made application but is operating without a license;

(2) Against a school district, county board of DD, or eligible nonpublic school described in paragraph (A) of rule 3301-32-11 of the Administrative Code that is operating a program after



expiration of an existing license that has failed to make a timely renewal application as required in paragraph (I) of rule 3301-32-11 of the Administrative Code; and

(3) Against a school district, county board of DD, or eligible nonpublic school described in paragraph (A) of rule 3301-32-11 of the Administrative Code that is operating a program after the entry of a lawful adjudication order revoking an existing license or denial of a timely filed renewal application for licensure.

(T) The surrender of a license to the department or the withdrawal of an application for licensure by a school district, county board of DD, or eligible nonpublic school shall not prohibit the department from instituting any of the actions set forth in this rule.