



Ohio Administrative Code

Rule 5123-5-04 Denial, suspension, and revocation of adult services, business manager, and service and support administration registration and certification.

Effective: August 19, 2024

(A) Purpose

This rule establishes the grounds and procedure for superintendents of county boards of developmental disabilities to deny, suspend, and revoke adult services, business manager, and service and support administration registration and certification issued in accordance with section 5126.25 of the Revised Code.

(B) Definitions

For the purposes of this rule, the following definitions apply:

- (1) "County board" means a county board of developmental disabilities.
- (2) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (A)(3)(e) of section 109.572 of the Revised Code.
- (3) "Superintendent" means a person certified by the department in accordance with rule 5123-5-03 of the Administrative Code and employed in that capacity by a county board.

(C) Grounds for denial, suspension, and revocation of registration or certification

- (1) A superintendent will deny, suspend, or revoke a registration or certification if the superintendent finds, pursuant to an adjudication, that the applicant for or holder of the registration or certification has engaged in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or holder's position.
- (2) Except as provided in paragraph (C)(3) of this rule, a superintendent will deny or revoke a registration or certification if the superintendent finds, pursuant to an adjudication, that the applicant



for or holder of the registration or certification:

(a) Has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for any of the disqualifying offenses listed or described in paragraph (E)(1)(a) of rule 5123-2-02 of the Administrative Code;

(b) Has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for any of the disqualifying offenses listed or described in paragraph (E)(1)(b) of rule 5123-2-02 of the Administrative Code if a period of ten years has not elapsed from the date the applicant or holder was fully discharged from imprisonment, probation, and parole;

(c) Has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for any of the disqualifying offenses listed or described in paragraph (E)(1)(c) of rule 5123-2-02 of the Administrative Code if a period of seven years has not elapsed from the date the applicant or holder was fully discharged from imprisonment, probation, and parole;

(d) Has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for any of the disqualifying offenses listed or described in paragraph (E)(1)(d) of rule 5123-2-02 of the Administrative Code if a period of five years has not elapsed from the date the applicant or holder was fully discharged from imprisonment, probation, and parole;

(e) Has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for multiple disqualifying offenses if the applicable period of time in accordance with paragraph (E)(2) of rule 5123-2-02 of the Administrative Code has not elapsed from the date the applicant or holder was fully discharged from imprisonment, probation, and parole; or

(f) Has been included in one or more of the databases listed in paragraphs (C)(2)(a) to (C)(2)(f) of rule 5123-2-02 of the Administrative Code.

(3) A conviction of or a plea of guilty to a disqualifying offense listed or described in paragraphs (E)(1)(a) to (E)(1)(d) of rule 5123-2-02 of the Administrative Code will not constitute grounds for the denial or revocation of a registration or certification if the requirements in paragraph (F) of rule 5123-2-02 of the Administrative Code are met.



(D) Requirement to disclose conviction

Applicants for or holders of registration or certification must disclose a conviction for a disqualifying offense, including a conviction that has been sealed.

(E) Adjudication procedure

(1) The superintendent will notify an applicant for or holder of registration or certification in writing if the superintendent intends to deny, suspend, or revoke the applicant's or holder's registration or certification. The notice will contain the following information:

(a) The right of the applicant for or holder of registration or certification to request a hearing within thirty calendar days of the date of the notice.

(b) A statement that the applicant for or holder of registration or certification may appear in person or through an attorney.

(c) A statement that the applicant for or holder of registration or certification or the applicant's or holder's attorney may:

(i) Present the applicant's or holder's position, arguments, or contentions entirely in writing; or

(ii) If a hearing is requested, at the hearing may present evidence and examine witnesses appearing for and against them.

(d) That the failure to request a hearing will result in the denial, suspension, or revocation of the registration or certification.

(2) If the applicant for or holder of registration or certification timely requests a hearing, the superintendent will appoint a hearing examiner to conduct the hearing. The hearing examiner will not be an employee of the county board. The hearing examiner will be admitted to the practice of law in Ohio and possessed of such qualifications as to be able to render a neutral and informed



decision.

(3) The hearing examiner will notify the applicant for or holder of registration or certification of the time, date, and place of the hearing. If the applicant for or holder of registration or certification is unable to attend the hearing as scheduled, the applicant or holder may request that the hearing be rescheduled. The hearing examiner will determine if rescheduling the hearing is warranted and make efforts to schedule the hearing at a time, date, and place mutually convenient.

(4) At least fifteen calendar days prior to the date set for the hearing upon request by either party, the superintendent and the applicant for or holder of registration or certification will exchange witness lists and lists of exhibits to be introduced at the hearing. The hearing examiner may extend the time for good cause shown.

(5) Both parties may be present at the hearing, be represented by counsel, require witnesses to be under oath, cross-examine witnesses, take a record of the proceedings, and require the presence of witnesses in their behalf upon subpoena to be issued by the superintendent. The superintendent will provide for a complete stenographic record of the proceedings, and upon request, a copy of the record will be furnished to the applicant for or holder of registration or certification at no cost.

(6) The hearing examiner will issue a written report and recommendation setting forth findings of fact, conclusions of law, and a recommendation for the superintendent within ten calendar days of the hearing. Within five calendar days of receipt of the report and recommendation, the superintendent will serve the report and recommendation upon the applicant for or holder of registration or certification or the applicant's or holder's attorney.

(7) Within ten calendar days of receipt of the report and recommendation, the applicant for or holder of registration or certification may file written objections with the superintendent. The superintendent will issue a decision and serve the decision upon the applicant for or holder of registration or certification and the applicant's or holder's attorney. The superintendent's decision is final.