



Ohio Administrative Code Rule 5180-37-02 Compliance and investigation.

Effective: July 1, 2021

(A) Boards of education intending to establish a preschool must demonstrate a need for a preschool program. No school district board of education, county board of developmental disabilities, educational service center, community school or eligible nonpublic school shall operate, establish, manage, conduct or maintain a preschool program, including head start, without a license issued under sections 3301.52 to 3301.59 of the Revised Code and this chapter of the Administrative Code.

(B) "All Education Management Information System" (EMIS) reporting entities that have been issued a license to operate a preschool program are to report all preschool students being educated by the entity as outlined in section 3301.0714 of the Revised Code using guidelines established by the department.

(C) Programs operated by a county board of developmental disabilities for children under the age of three are not required to be licensed through the department of education. Programs operated by a county board of developmental disabilities for preschool children age three and older are required to be licensed.

(D) The requirements for the application to operate a preschool are as follows:

(1) Completion of an electronic application to the department.

(2) Submission of the application at least thirty days prior to the proposed open date and prior to children attending.

(3) Submission of the following documents:

(a) Building approval in accordance with section 3301.55 of the Revised Code.

(b) A current fire inspection in accordance with section 3301.55 of the Revised Code.



(c) A valid food license or a valid food license exemption from the local health department having jurisdiction or from the Ohio department of health.

(E) The governing body responsible for the preschool program's operation shall be responsible for securing and maintaining a license for the facility in which the preschool program operates.

(1) If all the children in the program are relocated to a new facility, the governing body shall be responsible for notifying the department by completing a change of location request at least thirty days prior to the relocation and prior to the children attending.

(a) If the new facility is not currently licensed by the department, a change of location request must be completed at least thirty calendar days prior to the relocation and prior to the children attending.

(b) If the new facility is currently licensed for the governing body by the department for preschool, the governing body is responsible for completing a change of capacity request before the existing license will be amended.

(2) An organization that will no longer be operating a preschool program is responsible for submitting a closure request to the department.

(3) A program is responsible for maintaining the services, months, days and operating hours of the program in the "Ohio Child Licensing and Quality System" (OCLQS).

(F) Programs will receive at least one unannounced on-site inspection in a twelve month period. All visits may be unannounced at the discretion of the department.

(G) Data collected during a licensing inspection may be used in other inspections conducted by the department with regard to specific program performance standards.

(H) Records and reports related to the program shall be submitted as requested by the department.

(I) Publicly funded programs must achieve a "Step Up to Quality" rating as defined under section



5104.29 of the Revised Code.

(J) The most recent written compliance reports shall remain posted in a conspicuous place near the posted program license until the next compliance report is received from the department.

Inspections may be viewed online via the childcare search website. An individual may submit a written request to the department for a copy of the program's licensing record. A request for review of a licensing non-compliance may be filed with the department within seven business days of receiving a compliance report.

(K) All complaints and reports concerning the operation of programs regulated by this chapter of the Administrative Code and sections 3301.52 to 3301.59 of the Revised Code, shall be reported to the office of early learning and school readiness.

(L) All actions of the department with respect to licensing a preschool program, refusal to license or revocation of a license, shall be in conformity with sections 3301.57 and 3301.58 and Chapter 119. of the Revised Code.

(M) The department may deny or revoke a license in accordance with section 119.07 of the Revised Code if the applicant knowingly makes a false statement on the application, does not comply with the requirements of this chapter of the Administrative Code, or has pleaded guilty or been convicted of an offense described in section 3301.541 of the Revised Code.

(N) If the department revokes a license or refuses to renew a license, the program or fiscal agent shall not be issued a license within two years from the date of revocation of a license or refusal to renew a license.

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

(1) Child is left unattended inside or outside of facility/building;

(2) Child left unattended on a field trip or in a vehicle or, otherwise, transportation policies are not followed;



- (3) Falsified information is submitted to the department;
 - (4) Program fails to report suspected abuse, neglect, or endangerment;
 - (5) Medication is dispensed to the wrong child or the wrong dosage is administered;
 - (6) Use of prohibited disciplinary techniques in accordance with rule 3301-37-10 and rule 3301-35-15 of the Administrative Code;
 - (7) Substantiated public children's services agency finding of abuse or neglect for any staff member;
 - (8) An employee refuses to be fingerprinted and remains employed, or a person remains employed when they are not eligible for employment;
 - (9) Swimming activity takes place without a lifeguard or a lifeguard is used to count in ratio, swimming site is accessible to children without staff supervision, or swimming activity takes place in a lake, pond, or river;
 - (10) Weapons or ammunition are on the premises without prior approval in accordance with Chapter 2923. of the Revised Code and/or are accessible to children;
 - (11) The department or its representatives are denied access to conduct a compliance review pursuant to Chapter 3301-37 of the Administrative Code.
 - (12) Child(ren) are not protected from harm which resulted in a serious incident or injury.
- (P) Any serious risk violation described in, but not necessarily limited to this rule, as reviewed by the department at its discretion may result in any of the following:
- (1) Denial of a license application or approval for a non-expiring or continuous license;
 - (2) Revocation of a license;



(3) Reduction or removal of a quality rating; or

(4) Loss of funding.

(Q) The following are identified as "serious injuries":

(1) Death of a child at the program;

(2) A child receives a bump or blow to the head that requires first aid or medical attention;

(3) An incident, injury, or illness that requires the school to close, 911 to be called or a child to be removed by the parent for medical treatment, professional consultation; or

(4) An unusual or unexpected incident which jeopardizes the safety of a child or employee of the program.

(R) Any program with serious risk or serious injury, violations or incidents shall report the violation or incident within twenty-four hours to the department and submit a corrective action plan on the department's request.