

Child Care Legal Action Resources for Providers



Q What is DCYF Child Care Licensing?

A The Department of Children, Youth, and Families (DCYF) licenses about 6,800 child care and early learning programs and school-age sites in Washington state. Licensed child care and early learning providers follow foundational quality standards set by the Washington Administrative Code (WAC) to ensure children in licensed care are in safe, healthy, and nurturing environments.

Q What is a summary suspension?

A It is a temporary action that DCYF uses to keep children safe. The child care program is not able to operate during a suspension. “Suspend,” when used in reference to a provider’s licensing status, means an enforcement action by the agency to temporarily stop a license to protect the health, safety, or welfare of enrolled children, or the public. (WAC 110-300-0443) <https://app.leg.wa.gov/WAC/default.aspx?cite=110-300-0443>

Q What happens when a license is suspended?

A When a child care facility is summarily suspended, DCYF notifies the licensee in writing, and the facility and its operations must close immediately. If the licensee disagrees with the suspension, they may appeal and appear before an Administrative Law Judge (ALJ) to request a “stay.” A stay allows the facility to remain open until a hearing is held. The ALJ hears the facts of the case and determines a ruling, which is the final step in the appeals process.

Q What is a revocation?

A A revocation is a legal action that formally and permanently closes a child care license, which means the child care facility cannot reopen. State law (RCW 43.215) authorizes DCYF to revoke a license when a licensed provider demonstrates noncompliance with laws and regulations. A revocation involves, but is not limited to, repeated violations of child care licensing rules. Revocation occurs when no other action will remedy the concerns.

Q What happens when a license is revoked?

A A licensee receives written notification when their license is revoked. The notification includes the reason for DCYF’s decision and an explanation of the licensee’s due process rights. In response to the notification, the licensee can do one of two things:

- Appeal the action by submitting a request within 28 days to the state Office of Administrative Hearings (OAH) and the local DCYF Child Care Licensing Office; or
- Accept DCYF’s decision and close the facility within 28 days of receipt of notification.



Washington State Department of
CHILDREN, YOUTH & FAMILIES

What is a civil penalty?

 A civil penalty, or fine, is an enforcement action issued by the agency. This may be in place of a facility licensing compliance agreement (FLCA) or probationary license. For example, if an early learning provider refuses an FLCA or a probationary license, a civil penalty may be issued. A civil penalty is a result of, but is not limited to, repeated violations of child care licensing rules. A civil penalty occurs when no other action will remedy the concerns.

What happens when a civil penalty is issued?

 A licensee receives written notification when a civil penalty is issued. The notification will include the dollar amount of the civil penalty, when the civil penalty must be paid, the reason for DCYF's decision, and an explanation of the licensee's due process rights.

In response to the civil penalty action, the licensee can do one of two things:

- a. Appeal the action by submitting a request within 28 days to the OAH; or
- b. Accept DCYF's decision and pay the fine. Please refer to your Civil Penalty Letter for detailed information on paying your fine.

Possible Outcomes and Legal Definitions

Affirmed: The court's decision to validate, confirm, or uphold a judgement of a lower court.

Dismissed: The court's decision to terminate a court case on the defendant. Dismissal may be for a variety of reasons, including mutual request of the parties, resolution by settlement, failure of the appealing party to participate in the appeal, or a finding that, as a matter of law, there is no way for the appealing party to achieve the result they have sought through appeal. Dismissal at the OAH, for any reason, allows a 20-day period for the appellant to seek reinstatement of the appeal.

Due Process: Included in the 14th amendment of the US Constitution, it guarantees that the state will treat individuals with fundamental fairness and protect an individual's right to appeal an adverse action against a license or a founded finding for child abuse or neglect.

Lifted: To remove the impact of a legal action without removing the formal imposition of that action. In other words, the action will remain a legal action of the agency, but the provider can disregard the action after it is lifted, though it will remain on the provider's record. Lifted is used for summary suspensions when the agency does not believe there is imminent risk to children but has not yet decided that the summary suspension should be abandoned entirely.

Negative action: A court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction. It results in a finding against the applicant, reasonably related to the individual's character, suitability, and competence to care for, or have unsupervised access to, children in child care. This may include, but is not limited to:

- a. A decision issued by an ALJ;
- b. A final determination, decision, or finding made by an agency following an investigation;
- c. An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract instead of the adverse action;
- d. A revocation, denial, or restriction placed on any professional license; or
- e. A final decision of a disciplinary board.

No appeal: If there is no appeal, it means that the agency's action remains in force. Legal letters in licensing cases advise providers that if they do not seek a hearing at the state OAH, the action will be put into effect 28 days after they are served with the letter. The only exception is for summary suspension, which is effective right away. If the provider does not seek a hearing within 28 days of summary suspension, the action is final and remains closed.

Rescinded: To cancel the action. When legal action is rescinded, it means the legal action will no longer be on the provider's record. Rescinding a summary suspension often follows lifting a summary suspension at a time when the agency has all the necessary information to decide that it will not pursue the summary suspension.

Settlement: An agreement that ends a dispute and results in the voluntary dismissal of any related litigation.

Stayed: A "Stay" is an action taken by the court to stop the effect of a legal proceeding on actions of a party. It is used for summary suspension. A provider who wants to operate while appealing a summary suspension can request the state OAH to issue a stay of summary suspension. If the stay is granted, the provider will be able to operate during the hearing to decide if summary suspension was applied correctly.

Upheld: To judge a legal decision as correct and to decide to not change the legal action.



For information about preparing for a DCYF hearing, visit: <https://oah.wa.gov/case-preparation/hearings/department-children-youth-families>

For information about laws and rules related to child care licensing, visit:

www.dcyf.wa.gov/practice/policy-laws-rules

Questions?

Contact your licensor, or your local Early Learning and Child Care Office, at

www.dcyf.wa.gov/find-an-office/el-offices