

65C-20.012 Enforcement.

This rule establishes the grounds under which the Department may issue an administrative fine, deny, suspend, revoke a license or registration or place a licensee or registrant on probation status as well as uniform system of procedures to impose disciplinary sanctions.

(1) Definitions.

(a) “Day” means a weekday, excluding weekends and holidays.

(b) “Differential Monitoring” is a regulatory method for determining the frequency or depth of monitoring based on an assessment of a program’s history of compliance with licensing rules.

(c) “Key Indicator Standards” are any standards identified that statistically predict overall compliance with all standards.

(d) “Probation” is a licensing status indicating the license is in jeopardy of being revoked or not renewed due to violations within the control of the provider. Probation may require the licensee to comply with specific conditions intended to ensure that the licensee comes into and maintains compliance with licensing standards. Examples of such conditions include the following: a deadline to remedy an existing violation, a specified period during which compliance with licensing standards must be strictly maintained; and, specified conditions under which the home must operate during the probationary period.

(e) “Standards” are requirements for the operation of a licensed family day care home or large family child care home provided in statute or in rule.

(f) “Supplemental Standards” are any standards not identified as a Key Indicator that if not met, pose a greater risk of harm to children in care.

(g) “Technical Assistance” means a Department offer of assistance to a licensee or registrant to correct the statutory or regulatory violations.

(h) “Violation” is a noncompliance with a licensing standard as described in an inspection report resulting from an inspection under Section 402.311, F.S., as follows regarding Class I, Class II, and Class III Violations.

1. “Class I Violation” is an incident of noncompliance with a Class I standard as described on CF-FSP Form 5318, May 2019, Family Day Care Home Standards Classifications Summary and CF-FSP Form 5317, October 2021, Large Family Child Care Home Standards Classification Summary, which is incorporated by reference. A copy of CF-FSP Forms 5318 and 5317 may be obtained from the Department’s website www.myflfamilies.com/childcare or from the following links: <http://www.flrules.org/Gateway/reference.asp?No=Ref-10486>, and <http://www.flrules.org/Gateway/reference.asp?No=Ref-13927>. However, any violation of a Class II standard that results in death or serious harm to a child shall escalate to a Class I violation. Class I violations are the most serious in nature.

2. “Class II Violation” is an incident of noncompliance with an individual Class II standard as described on CF-FSP Form 5318 and CF-FSP Form 5317. Class II violations are less serious in nature than Class I violations.

3. “Class III Violation” is an incident of noncompliance with an individual Class III standard as described on CF-FSP Form 5318 and CF-FSP Form 5317. Class III violations are less serious in nature than either Class I or Class II violations.

(2) Authority. The operation of a family day care home is prohibited unless registered or licensed, as required by county ordinance or resolution. The department or local licensing agency shall have the authority to seek an injunction in the circuit court where the home is located to stop the continued operation of a family day care home that is not licensed or registered. For licensed family day care homes, the department or local licensing agency shall also have the authority to seek an injunction in the circuit court where the home is located to stop the continued operation if the family day care home is in violation of the minimum standards. Pursuant to Section 120.60(6), F.S., an emergency suspension order may also be used to stop the continued operation if the family day care home poses immediate serious danger to the public health, safety, or welfare of the children who are enrolled.

(3) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions for all Class I violations and for repeated Class II and Class III violations shall be applied progressively for each standard violation. The documents entitled, Reconciliation of 2009 and 2017 Family Day Care Home Standards Classification Summaries and Reconciliation of 2009 and 2017 Large Family Child Care Home Standards Classification Summaries, CF-FSP Form 5422 and CF-FSP 5421, October 2017, which are incorporated into this rule, provide an alignment of the 2009 and 2017 Classification Summaries for purposes of progressive enforcement. A copy may be obtained at the following links: <http://www.flrules.org/Gateway/reference.asp?No=Ref-08755>, and <http://www.flrules.org/Gateway/reference.asp?No=Ref-08756>. In addition, providers will be offered technical assistance in conjunction with all violations. The classification of standard violations within the Family Day Care Home Standards and Large Family Child Care Home Classification Summaries and the progressive

disciplinary actions prescribed for each class by this rule are based on the provisions of Section 402.310(1)(b), F.S.

(b) Each standard violation has an assigned classification based on the nature or severity of the violation(s) as identified within CF-FSP Form 5318 and CF-FSP Form 5317.

(c) Technical assistance shall be provided for all violations. A grace period is provided, wherein a violation that has occurred more than two years prior to a subsequent violation of the same standard will not be counted for purposes of progressive discipline. A violation that has been withdrawn by the Department or has been dismissed as the result of an administrative proceeding held pursuant to Chapter 120, F.S., contesting an administrative complaint will not be counted for purposes of progressive discipline. A violation that is only reflected in an inspection report does not relieve the Department of its burden to prove that violation for purposes of progressive discipline upon the alleged occurrence of a subsequent violation.

(d) Failure to submit a completed CF-FSP Form 5133, Application for a License to Operate a Family Day Care Home, which is incorporated by reference in subsection 65C-20.008(1), F.A.C., or CF-FSP Form 5238, Application for a License to Operate a Large Family Child Care Home, which is incorporated by reference in paragraph 65C-20.008(2), F.A.C., for renewal of an annual license at least 45 days prior to the expiration date of the current license constitutes a licensing violation. The department shall issue an administrative complaint imposing a fine of \$50.00 for the first occurrence, \$100.00 for the second occurrence, and \$200.00 for each subsequent occurrence within a five-year period.

(e) Disciplinary sanctions for licensing violations shall be progressively enforced as follows:

1. Class I Violations.

a. For the first and second violation of a Class I standard, the Department shall, upon applying the factors in section 402.310(1)(a)1., F.S., impose a fine not less than \$100.00 nor more than \$500.00 per day for each violation, and may impose other disciplinary sanctions in addition to the fine.

b. For the third and subsequent violation of a Class I standard, the Department shall suspend, deny or revoke the license. The Department, upon applying the factors in section 402.310(1)(b), F.S., may also levy a fine not less than \$100.00 nor more than \$500.00 per day for each violation in addition to any other disciplinary sanction.

2. Class II Violations.

a. For the second violation of the same Class II standard, the Department shall issue an administrative complaint imposing a fine of \$50.00 for each violation.

b. For the third violation of the same Class II standard, the Department shall impose a fine of \$60.00 per day for each violation.

c. For the fourth violation of the same Class II standard, the Department shall place the provider's license on probation status for a period not to exceed six months, and shall also impose a fine of \$75.00 per day for each violation.

d. For the fifth and subsequent violation of the same Class II standard, the Department shall suspend, deny, or revoke the license and shall also impose a fine of \$100.00 per day for each violation. However, for a fifth violation of a Children's Health and/or Immunization standard, the Department will not place the provider's license on probation status.

3. Class III Violations.

a. For the third violation of the same Class III standard, the Department shall impose a fine of \$25.00 for each violation. This violation, and subsequent violations of the same standard within a two-year period will be classified as "Class III."

b. For the fourth violation of the same Class III standard, the Department shall impose a fine of \$30.00 per day for each violation.

c. For the fifth violation of the same Class III standard, the Department shall place the provider's license on probation status for a period not to exceed six months, and impose a fine of \$40.00 per day for each violation.

d. For the sixth and subsequent violation of the same Class III standard, the Department shall suspend, deny, or revoke the license, and impose a fine of \$50.00 per day for each violation. However, for the sixth and subsequent violation of the same Class III Children's Health and/or Immunization standard, the Department will place the provider's license or registration on probation status for a period not to exceed six months in lieu of suspending, denying, or revoking the license or registration.

(4) Differential Monitoring.

(a) Eligibility. To be eligible for an inspection under the differential monitoring method, the home must:

1. Be licensed for at least 24 consecutive months;
2. Have received at least two on-site renewal inspections in the most recent 24 months;
3. Have no citations for any Class I or Class II violations within the most recent 24 month period; and,
4. Have no current uncorrected violations.

5. Have no open regulatory complaints nor active Child Protection Service investigations.

(b) Inspection. The inspection will measure compliance with the Key Indicator System Standards, the Supplemental Standards, and five randomly-selected standards. If one or more violations of a Class I or Class II level are identified, the provider will no longer be eligible for an abbreviated inspection and will be subject to a full inspection.

(5) Access. The family day care operator must allow access to the entire premises of the family day care home to inspect for compliance with family day care home minimum standards. Access to the family day care home also includes access by the parent, legal guardian, and/or custodian, to their child(ren) while in care.

Rulemaking Authority 402.310, 402.313, 402.3131, 402.305 FS. Law Implemented 402.305, 402.310, 402.313, 402.3131 FS. History—New 7-2-98, Amended 7-13-03, 9-12-04, 4-12-07, 5-1-08, 1-13-10, 10-25-17, 6-12-19, 1-9-22, Amended 7-28-22.