

65C-22.010 Enforcement.

This rule establishes the grounds under which the Department shall 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) "Probation" is a licensing status indicating the license is in jeopardy of being revoked or not renewed due to violations of licensing standards. 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 are: 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 facility must operate during the probationary period.

(c) "Standards" are requirements for the operation of a licensed facility provided in statute or in rule.

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

(e) "Violation" means noncompliance with a licensing standard as described in an inspection report resulting from an inspection under Section 402.311, F.S., as follows with regard to 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 5316, October 2021 Child Care Facility Standards Classification Summary and CF-FSP Form 5427, October 2021, School-Age Child Care Facility Standards Classification Summary, which are incorporated by reference. Copies of the CF-FSP Form 5316 and CF-FSP Form 5427 may be obtained from the Department's website at www.myflfamilies.com/childcare or from the following links: <http://www.flrules.org/Gateway/reference.asp?No=Ref-13964> and <http://www.flrules.org/Gateway/reference.asp?No=Ref-13965>. 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. The effective date of a termination of a provider's Gold Seal Quality Care designation is the date of the Department's written notification to the provider. 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 5316. 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 5316. Class III violations are less serious in nature than either Class I or Class II violations.

(2) 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 document entitled, Reconciliation of 2012 and 2017 Child Care Facility Classification Summaries, CF-FSP Form 5420, October 2017, which is incorporated into this rule, provides an alignment of the 2012 and 2017 Child Care Facility Classification Summaries for purposes of progressive enforcement. A copy of the CF-FSP Form 5420 may be obtained from the Department's website or from the following link: <http://www.flrules.org/Gateway/reference.asp?No=Ref-08741>. In addition, providers will be offered technical assistance in conjunction with all violations. The classification of standard violations within the Child Care Facility Standards Classification Summary and the progressive disciplinary actions prescribed for each class by this rule are based on the provisions of Section 402.310(1)(b), FS.

(b) A grace period is provided, wherein a violation of a standard 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. However, for the purposes of continued licensure or registration, the program's violation history will be considered. 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.

(c) Failure to submit a completed CF-FSP Form 5017, Application for a License to Operate a Child Care Facility, which is incorporated by reference in paragraph 65C-22.001(1)(a), 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 impose an administrative 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.

(d) 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), 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), F.S., may also impose 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 impose an administrative fine of \$50.00 for each such violation.

b. For the third violation of the same Class II standard, the Department shall impose an administrative fine of \$60.00 per day for each such 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 such 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 an administrative fine of \$100.00 per day for each such violation.

3. Class III Violations.

a. For the third violation of the same Class III standard, the Department shall impose an administrative fine of \$25.00 for each such violation.

b. For the fourth violation of the same Class III standard, the Department shall impose an administrative fine of \$30.00 per day for each such 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 shall also impose an administrative fine of \$40.00 per day for each such violation. However, for the fifth violation of a Children's Health and Immunization standard, the Department will not place the provider's license on probation status.

d. For the sixth and subsequent violation of a Class III standard, the Department shall suspend, deny, or revoke the license, and the Department shall also impose an administrative fine of \$50.00 per day for each such violation. However, for the sixth and subsequent violation of the same Class III Children's Health and 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.

(3) When the Department has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration, the conversion of a license or registration to probation status, or the imposition of an administrative fine, it shall determine the matter in accordance with procedures prescribed in Chapter 120, F.S. Imposition of an administrative fine shall be accomplished through an administrative complaint. Denial of a license or registration or conversion to probationary status pursuant to Section 402.310, F.S., may be accomplished through an administrative complaint or a notice of intent to deny a pending renewal application.

(4) This rule will be reviewed and repealed, modified, or renewed through the rulemaking process five years from the effective date.

Rulemaking Authority 402.305, 402.310 FS. Law Implemented 402.305, 402.310 FS. History--New 5-1-08, Amended 1-13-10, 8-1-13, 10-25-17, 6-12-19, 1-9-22.