

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER D: LICENSING ADMINISTRATION

PART 383
LICENSING ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section	Purpose
383.10	Purpose
383.15	Definitions
383.20	Applicability

SUBPART B: ENFORCEMENT

Section	Purpose
383.25	Monitoring Visits to Licensed Facilities
383.30	Complaints Alleging Violation of the Child Care Act or Licensing Standards
383.35	Investigations of Complaints Concerning Licensed Facilities
383.40	Re-examination of a Foster Family Home After an Indicated Child Abuse or Neglect Report
383.45	Protective Plan
383.50	Corrective Plan
383.55	Supervisory Review
383.60	Informal Review
383.65	Participants in an Informal Review
383.70	Outcomes of the Informal Review
383.75	Grounds for Revocation, Refusal to Renew, and Refusal to Issue Full License
383.80	Conditional License
383.85	Notice of Intent to Revoke, Refuse to Renew, or Refuse to Issue Full License
383.90	Surrender of a License or Permit
383.95	Acquiring a New License After Surrender With Cause
383.100	Investigations of Complaints Concerning Unlicensed Facilities
383.105	Administrative Order of Closure
383.110	Appeal After Issuance of an Administrative Order of Closure

SUBPART C: ADMINISTRATIVE HEARINGS

Section	Purpose
383.115	Who May Request an Administrative Hearing
383.120	What May Be Reviewed Through the Administrative Hearing Process
383.125	What May Not Be Reviewed Through the Administrative Hearing Process
383.130	The Right to Request an Administrative Hearing
383.135	Notices of Department Decisions
383.140	The Role of the Chief Administrative Law Judge
383.145	Rights and Responsibilities in Administrative Hearings

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

383.150 The Administrative Law Judge
383.155 Final Administrative Decision
383.160 Records of Administrative Hearings

SUBPART D: SEVERABILITY OF THIS PART

Section

383.165 Severability of This Part
383.APPENDIX A Statutory Grounds for Revocation or Refusal to Renew a License
383.APPENDIX B Resource Reference List

AUTHORITY: Authorized by the Child Care Act of 1969 [225 ILCS 10] and the Children and Family Services Act [20 ILCS 505].

SOURCE: Adopted at 5 Ill. Reg. 14491, effective December 29, 1981; old Part repealed at 32 Ill. Reg., and new Part adopted at 32 Ill. Reg. 4332, effective March 17, 2008; amended at 36 Ill. Reg. 13039, effective August 15, 2012.

SUBPART A: GENERAL PROVISIONS

Section 383.10 Purpose

This Part describes:

- a) the Department and supervising agency's responsibility to monitor child care programs and facilities and to visit and examine child care programs and facilities to determine compliance with the Child Care Act of 1969 [225 ILCS 10] and licensing standards;
- b) requirements for the Department or supervising agency to receive complaints and conduct licensing complaint investigations;
- c) requirements for the Department or supervising agency to develop and implement a protective plan or corrective plan that assures the safety of children while a licensed program or facility corrects noted violations;
- d) review of licensing decisions;
- e) enforcement actions;
- f) the procedures for surrender of a license or permit; and
- g) the administrative hearing process through which a licensee or permit holder may obtain review of certain enforcement actions.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.15 Definitions

"Administrative hearing" means a formal review of a decision by the Department to revoke or refuse to renew a license, or to refuse to issue a full license to the holder of a permit.

"Administrative order of closure" means a document issued by the Department that orders the immediate closure of a child care program or facility subject to licensure under the Child Care Act, whether the program or facility is licensed or unlicensed.

"Administrative Law Judge" means a licensed attorney who is appointed by the Director and is responsible for conducting administrative hearings and issuing recommended decisions to the Director.

"Appellant" means the person or entity who requests an administrative hearing or on whose behalf an administrative hearing is requested.

"Authorized representative" means a person, including an attorney, authorized in writing by a party to assist in the informal review or administrative hearing process. If the party is unable to reduce such authorization to writing, the Department, on request, shall assist the party in doing so.

"Chief Administrative Law Judge" means the supervisor of the Administrative Law Judges and coordinator for the administrative hearing process.

"Child" means any person under 18 years of age. For purposes of admission to and residence in child care institutions, group homes and maternity centers, the term also means any person under 21 years of age who is referred by a parent or guardian, including an agency having legal responsibility for the person pursuant to the Juvenile Court Act of 1987. [225 ILCS 10/2.01]

"Child Care Act" means the Child Care Act of 1969 [225 ILCS 10].

"Child care facility" means any person, group of persons, agency, association, organization, corporation, institution, center, or group, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility defined in the Child Care Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act. [225 ILCS 10/2.05]

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

"Complaint" means:

any oral or written report made to or by staff of the Department or a supervising agency or by the public alleging a violation of licensing standards or the Child Care Act;

an unusual incident report, as defined in 89 Ill. Adm. Code 331 (Unusual Incidents), that alleges a violation of a licensing standard or the Child Care Act involving children in day care, children in the temporary custody or guardianship of the Department, or children for whom the Department maintains an open service case, when the alleged incident involves an owner, operator or employee of a child care facility; or

a referral from the Department's State Central Register (SCR) that alleges a violation of a licensing standard or the Child Care Act or a report of alleged child abuse or neglect received by the SCR when an owner, operator or employee of a child care facility, or a licensee, employee or another member of the household if the child care facility operates in a family home, is listed as an alleged perpetrator (see 89 Ill. Adm. Code 300.160).

"Conditional license" means a non-renewable document issued by the Department after an informal review that authorizes a licensee to continue operating a licensed child care facility for a period of six months in compliance with a corrective plan, the Child Care Act and licensing standards, and requires the licensee to comply fully with all terms of the conditional license agreement.

"Corrective plan" means a written document approved by a licensing supervisor that lists violations of licensing standards and/or the Child Care Act, the actions to be taken by the licensee or permit holder to correct the violations, and the time frames for correcting the violations.

"Day" means a calendar day, unless otherwise specified in this Part.

"Department" means the Illinois Department of Children and Family Services. [225 ILCS 10/2.02]

"Department representative" means an attorney licensed to practice in the State of Illinois who is assigned to represent the Department at an administrative hearing.

"Director" means the Director of the Department of Children and Family Services.

"Final administrative decision" means the Department's final decision, order or determination, rendered by the Director in a particular case, on an issue reviewed through an administrative hearing that affects the legal rights, duties or privileges of participants and that may be further reviewed by the circuit court under the Administrative Review Law [735 ILCS 5/Art. III].

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

"Full license" means a document issued by the Department that authorizes the applicant to operate a child care program or facility for either a 3 or 4 year time period in accordance with licensing standards and the Child Care Act. The term "full license" does not include a permit or a conditional license.

"Indicated report" means any report of child abuse or neglect made to the Department pursuant to the Abused and Neglected Child Reporting Act [325 ILCS 5] for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Informal review" means a meeting conducted by the licensing administrator or designee to gather information regarding a permit holder's or licensee's noncompliance with the Child Care Act and licensing standards to determine whether further enforcement action shall be recommended.

"Initial application for license" means the first application for licensure submitted by the individual, corporation, or other legal entity, or an application for licensure submitted by the holder of a conditional licensee.

"License" means a document issued by the Department that authorizes the applicant to establish or operate a child care program or facility in accordance with applicable licensing standards and the Child Care Act.

"Licensee" means an individual, agency, or organization that holds a license issued by the Department.

"Licensing administrator" means management-level staff of the Department who are assigned the direct supervision of licensing supervisors.

"Licensing complaint investigation" means an information gathering and assessment process initiated following receipt of a complaint and conducted by a licensing representative in order to determine compliance with the Child Care Act and licensing standards.

"Licensing representative" means Department or licensed child welfare agency staff who have passed an examination demonstrating familiarity with the Child Care Act and with the appropriate standards and regulations of the Department in accordance with Section 5(c) of the Child Care Act and are authorized by the Department or agency to examine child care programs and facilities applying for or issued a license.

"Licensing standards" means the administrative rules promulgated by the Department governing the licensing and operation of child care facilities.

"Licensing study" means the written assessment of an application for a child care program or facility license that includes, but is not limited to, on-site visits, interviews, background checks, references, and the collection and review of supporting documents to determine compliance with the Child Care Act and licensing standards.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

"Licensing supervisor" means Department or licensed child welfare (see 89 Ill. Adm. Code 401.310) or day care (see 89 Ill. Adm. Code 405.10) agency staff assigned the responsibility for direct supervision of licensing representatives.

"Monitoring visit" means an on-site visit to the program or facility by the licensing representative to determine continuing compliance with the Child Care Act and licensing standards.

"Parties" means the Department and a person or persons who have requested an administrative hearing. No person may join in an administrative hearing as a party unless that person has standing to request an administrative hearing on the same issues before the Administrative Law Judge.

"Permit" means a one-time only document issued by the Department in accordance with applicable licensing standards.

"Permit holder" means an individual, agency, or organization that holds a permit issued by the Department.

"Permit period" means the time period designated in the licensing standards for a particular facility type during which an individual, agency, or organization may operate a child care program or facility pursuant to a permit issued by the Department.

"Perpetrator" means a person who, as a result of a child protection investigation, has been determined by the Department to have caused child abuse or neglect.

"Preponderance of the evidence" means the greater weight of the evidence or evidence that renders a fact more likely than not.

"Program", as used in this Part, means a Youth Transitional Housing Program operating in a licensed child care facility in accordance with applicable standards defined in 89 Ill. Adm. Code 409 (Licensing Standards for Youth Transitional Housing Programs) and the Children and Family Services Act [20 ILCS 505], or in an unlicensed facility where the transitional living facility meets the requirements of 89 Ill. Adm. Code 409.

"Protective plan" means a written plan of action developed by a licensing representative or a child protective service worker, and approved by the licensing supervisor, that restricts contact between a licensee, employee, volunteer, household member, or another person in contact with children in a licensed facility and the children cared for in the facility.

"Refusal to issue full license" means the Department has refused to issue a full license at the end of a permit period.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

"Refusal to renew a license" means that, after submission of a license renewal application and a licensing study based upon that application, the Department refuses to extend the license for an additional term.

"Regional Licensing Administrator" means the Department's regional-level manager who supervises Department licensing supervisors.

"Request for an administrative hearing" means the written request by an appellant for an administrative hearing.

"Revocation of a license" means the Department has terminated the rights and privileges associated with a license or a permit.

"Stipulation" means an agreement by the parties that certain facts are true and can be introduced into evidence without further proof.

"Supervising agency" means the Department, licensed child welfare agency or licensed day care agency that recommended licensure of or supervises a licensed foster home or day care home.

"Supervisory review" means a meeting conducted by the licensing supervisor and licensing representative during which a licensee or permit holder may dispute the licensing representative's substantiated findings of violation of the Child Care Act and licensing standards.

"Surrender of a license or permit" means a voluntary act by a licensee or permit holder to relinquish a license or permit to operate a child care program or facility. Surrender of a license or permit terminates all rights and privileges associated with the license or permit.

"Surrender with cause" means a surrender of a license or permit that occurs after the Department has offered an informal review or issued an administrative order of closure, but before the Department has issued a notice of intent to revoke, refusal to renew, or refusal to issue full license.

"Unlicensed child care facility" means a child care program or facility subject to licensure under the Child Care Act that is operating without a valid license or permit.

"Violation" means that the licensing representative has determined, during a licensing complaint investigation, a licensing study or a monitoring visit, that the licensee or permit holder has violated a licensing standard or a Section of the Child Care Act.

(Source: Amended at 36 Ill. Reg. 13039, effective August 15, 2012)

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.20 Applicability

This Part applies to all agencies, child care facilities and programs subject to regulation under the Child Care Act. The Department is ultimately responsible for enforcing the Child Care Act. Non-Department supervising agencies are authorized to perform certain enforcement functions as identified in this Part.

SUBPART B: ENFORCEMENT

Section 383.25 Monitoring Visits to Licensed Facilities

- a) Licensing representatives of the Department or supervising agency shall visit the program or facility for the purpose of determining its continued compliance with the Child Care Act and licensing standards or compliance with a protective plan or corrective plan. Monitoring visits may be announced or unannounced during the hours of operation, whether or not children are currently present or in care.
- b) Monitoring visits for all licensed foster homes shall be conducted at least twice each calendar year by a representative of the supervising agency, and more frequently when conditions in the home warrant.
- c) Monitoring visits for day care homes shall be conducted at least annually by a licensing representative from the supervising agency and more frequently when conditions in the home warrant.
- d) Monitoring visits for child care institutions, secure child care facilities, maternity centers, child welfare agencies, day care agencies, group homes, day care centers, group day care homes, youth emergency shelters and youth transitional housing programs shall be conducted at least annually by a Department licensing representative and more frequently when conditions in the facility warrant.
- e) Monitoring visits shall be more frequent for permit holders or conditional or provisional license holders.
- f) The licensing representative shall document observations made during the monitoring visit. The licensing representative shall notify the licensee or permit holder, in writing, of the violations noted, if any, and any required follow-up actions (e.g., corrective plan), and shall offer a supervisory review.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.30 Complaints Alleging Violation of the Child Care Act or Licensing Standards

- a) Complaints alleging violation of the Child Care Act or licensing standards related to the licensing or operation of child care programs or facilities may originate from any source (e.g., parents, other licensees, and the general public). Complaints alleging licensing violations or that a program or facility is operating without a license may be accepted from anonymous or identified sources.
- b) Staff of the Department and purchase of service agencies (see 89 Ill. Adm. Code 357) shall immediately make a licensing complaint when they observe or have knowledge of violations of the Child Care Act or licensing standards.
- c) A licensing complaint shall be immediately directed to the supervising agency or to the Department's licensing unit serving the geographical area of the facility. A licensing complaint involving a home licensed to operate as both a foster home and a day care home shall be directed to both supervising agencies, if different agencies supervise the foster home and day care home licenses.
- d) When the Department receives a complaint involving a foster home, day care home, or a home that is licensed to operate as both a foster home and a day care home, and the home is supervised by one or more supervising agencies, the Department shall immediately notify the agencies of the complaint.
- e) When a non-Department supervising agency receives a licensing complaint, that complaint shall be reported to the Department licensing representative who supervises the agency within 72 hours.
- f) Investigations Not Necessarily Required
 - 1) A licensing complaint investigation is not required when:
 - A) the alleged violation occurred more than 60 days before receipt of the complaint and is not of a continuing nature;
 - B) the complaint is anonymous and fails to allege violations that affect the health, safety, morals or welfare of the children being served; or
 - C) no violations of the Child Care Act or licensing standards are apparent from the complaint.
 - 2) However, the licensing supervisor may direct the licensing representative to conduct a monitoring visit at any time.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.35 Investigations of Complaints Concerning Licensed Facilities

- a) When a complaint alleges one or more violations of the Child Care Act or licensing standards involving a licensed child care program or facility, the supervising agency shall assign a licensing representative to investigate the allegations.
- b) The licensing representative shall begin a licensing complaint investigation within 2 business days after receipt of the complaint by the supervising agency licensing unit and shall complete the investigation within 30 days after receipt of the complaint. However, upon written notice to the licensee, the investigation may be extended for an additional 30 days.
- c) The licensing representative shall:
 - 1) interview the person making the complaint, if known, and others who may have information relevant to the complaint;
 - 2) obtain and review any relevant documentation;
 - 3) make one or more unannounced visits to the program or facility, during the hours of operation, to gather information and evidence relevant to the complaint, and to determine whether the program or facility is operating in accordance with the Child Care Act and licensing standards; and
 - 4) complete and document the licensing complaint investigation on forms prescribed by the Department.
- d) At the conclusion of the licensing complaint investigation, the licensing representative shall make a determination and enter a finding of "substantiated" or "unsubstantiated" with regard to each allegation in the complaint and shall document these findings. The licensing representative shall also document any other substantiated violations observed during the investigation.
- e) When all allegations in the complaint are unsubstantiated and the licensing representative continues to have reasonable concerns about the safety of children in the licensed program or facility, the licensing representative, with approval of the licensing supervisor, may implement a protective plan that reasonably addresses those concerns. The duration of a protective plan in this instance may not exceed 6 months.
- f) Within 5 days after supervisory approval of the determination, the licensing representative shall notify the complainant, in writing, of whether the allegations in the complaint were substantiated or unsubstantiated.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- g) Within 5 days after supervisory approval of the determination, the licensing representative shall notify the licensee or permit holder, in writing, of each finding noted in the complaint investigation and any required follow-up action (e.g., corrective plan), and shall offer a supervisory review.
- h) When a licensing complaint involves a home licensed to operate as both a foster home and a day care home, the licensing supervisors for both the foster home and day care home licensing units shall assign the complaint investigation to licensing representatives in their respective units and shall require the licensing representatives to coordinate their respective investigations.

Section 383.40 Re-examination of a Foster Family Home After an Indicated Child Abuse or Neglect Report

- a) *When a foster family home is the subject of an indicated report under the Abused and Neglected Child Reporting Act [325 ILCS 5], the Department must immediately conduct a re-examination of the foster family home to evaluate whether it continues to meet the minimum standards for licensure. The re-examination is separate and apart from the formal investigation of the report. The Department must establish a schedule for re-examination of the foster family home mentioned in the report at least once a year. [225 ILCS 10/4.3]*
- b) The supervising agency shall conduct an immediate re-examination of a licensed foster family home when:
 - 1) a child in substitute care or who resides in the home is the subject of an indicated report of child abuse or neglect and the licensee or another household member was identified as a perpetrator; or
 - 2) the licensee or any household member is identified as a perpetrator of an indicated report of abuse or neglect of any child.
- c) When the re-examination is conducted by an agency other than the Department, the agency shall forward the results of the re-examination to the Department within 5 days.

Section 383.45 Protective Plan

- a) A written protective plan shall be developed by the licensing representative or child protective service worker, and approved by the licensing supervisor, that restricts contact between the licensee or permit holder, a household member, volunteer or employee of the program or facility and children cared for in the program or facility when:
 - 1) a pending formal child protection investigation names the individual as an alleged perpetrator;

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- 2) the licensing representative determines that contact between the children in care and the individual presents an ongoing risk to the children, but that the health, safety and best interests of the children do not require closure of the program or facility or removal of the children from the licensed foster family home; or
 - 3) after a monitoring visit, the licensing representative documents a violation that requires a protective plan to restrict contact between the children in care and the individual to assure the health, safety and best interests of the children while the licensee is provided an opportunity to correct the violation.
- b) Depending upon the severity of the allegations or violations, a protective plan shall either:
- 1) prohibit the named individual from having any contact with the children in care; or
 - 2) require that all contact between the named individual and the children in care be supervised by an appropriate adult approved by the Department or supervising agency.
- c) A protective plan issued under subsection (a)(2) or (a)(3) of this Section shall be reviewed by the licensing supervisor every 6 months.

Section 383.50 Corrective Plan

- a) A corrective plan is a written document approved by the licensing supervisor that lists violations of licensing standards and/or the Child Care Act, the actions to be taken by the licensee or permit holder to correct the violations, and the time frames for correcting the violations.
- b) A corrective plan is required when the licensing representative documents one or more violations and the violations are not corrected while the licensing representative is still on site at the program or facility and the licensee or permit holder can correct the violations within 60 days (the licensing supervisor may approve more than 60 days). When a licensee cannot correct the violation within 60 days, but the correction can reasonably be expected within the approved extended time frame and the children are adequately protected, the licensing supervisor may approve an extended time frame at the time he or she approves the corrective plan. The licensee must provide documentation to show that he or she needs additional time to correct the violation (e.g., an estimated start date from a repairman, a correction that is dependent upon weather conditions, etc.).

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- c) A corrective plan is not required when the supervising agency determines that the violations are not capable of being corrected.
- d) A corrective plan is not required when the Department is issuing an administrative order of closure.
- e) Failure by the licensee or permit holder to submit or comply with a corrective plan may result in further enforcement action.

Section 383.55 Supervisory Review

- a) The licensing supervisor shall offer the licensee or permit holder a supervisory review, or a licensee or permit holder may request a supervisory review:
 - 1) when the licensee or permit holder questions whether one or more of the violations documented by the licensing representative occurred;
 - 2) when there is a disagreement regarding the application or interpretation of a specific Section of the Child Care Act or a licensing standard when substantiating a violation; or
 - 3) when the licensing supervisor believes that a supervisory review will be helpful to address ongoing issues with the licensee or permit holder.
- b) A supervisory review shall not be conducted to review a criminal conviction that constitutes a bar to licensure pursuant to Section 4.2(b) of the Child Care Act.
- c) A supervisory review shall not be offered when the Department is issuing an administrative order of closure.
- d) The supervisory review shall be scheduled within 14 days after the licensee's or permit holder's request and held at the earliest date.
- e) The licensing supervisor shall uphold the questioned violation when the licensing representative:
 - 1) documented sufficient evidence to substantiate the violation; and
 - 2) correctly interpreted and/or applied the Child Care Act or licensing standards in substantiating a violation.
- f) The licensing supervisor shall overturn the questioned violation when the licensing representative:
 - 1) did not obtain and/or document sufficient evidence to substantiate the violation; or

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- 2) misinterpreted and/or misapplied the Child Care Act or licensing standards.

- g) The licensing supervisor shall prepare a written report summarizing the information presented at the supervisory review and make findings regarding each disputed violation. The report shall be provided to the licensee or permit holder by hand delivery or regular mail.

Section 383.60 Informal Review

- a) The purpose of an informal review is to:
 - 1) allow the Department to gather the facts regarding the failure of the licensee or permit holder to submit a corrective plan or comply with the terms of a corrective plan or protective plan; and
 - 2) provide the licensee or permit holder an opportunity to demonstrate why the Department should not immediately initiate further enforcement action.

- b) Informal reviews are conducted by the Department's licensing administrators. A non-Department supervising agency shall refer all requests for informal reviews to the Department.

- c) The licensee or permit holder shall not be offered an informal review when the Department will be issuing or has issued an administrative order of closure.

- d) An informal review is not required:
 - 1) to review a criminal conviction that constitutes a bar to licensure pursuant to Section 4.2(b) of the Child Care Act; or
 - 2) when the Department determines that a violation cannot be corrected (e.g., extended incarceration of licensee) or it is not feasible to correct the violation.

- e) Except as provided in subsections (c) and (d), the licensing administrator shall notify the licensee or permit holder, by certified mail, of the right to request an informal review when the Department intends to initiate further enforcement action.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.65 Participants in an Informal Review

- a) The following persons shall participate in the informal review:
 - 1) The licensing administrator or designee shall attend and conduct the informal review; and
 - 2) the licensing representative, licensing supervisor and the licensee or permit holder shall attend any informal review.

- b) Other persons who may participate in an informal review include, but are not limited to:
 - 1) the licensee's or permit holder's attorney or authorized representative;
 - 2) a child welfare professional or other licensing representative with information relevant to the issue being reviewed; and
 - 3) a person designated by the Department to take notes at the informal review.

Section 383.70 Outcomes of the Informal Review

- a) After the informal review, the licensing administrator shall review all information and documentation presented and shall make one or more of the following findings:
 - 1) that the licensee or permit holder has or has not complied with the provisions of the corrective plan or protective plan;
 - 2) that the licensee or permit holder did not correct all of the violations according to the corrective plan, but there were mitigating reasons for the licensee's or permit holder's failure to do so and the Department is satisfied that the facility and responsible persons reasonably meet the licensing standards prescribed for the facility type;
 - 3) that the licensee or permit holder had not been offered a corrective plan prior to the informal review and it is appropriate to offer an initial corrective plan at this time; and/or
 - 4) a recommendation to initiate further enforcement action immediately.

- b) The licensing administrator shall prepare a written report summarizing the information presented at the informal review and making findings. The report shall be hand delivered to the licensee or permit holder or sent by certified mail.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.75 Grounds for Revocation, Refusal to Renew, and Refusal to Issue Full License

- a) The Department may initiate proceedings to revoke a license, to refuse to renew a license, or to refuse to issue full license to the holder of a permit in accordance with Sections 8 and 8.1 of the Child Care Act when grounds exist. (See [Appendix A.](#))
- b) The Department shall initiate proceedings to revoke a license within 10 working days after issuing an administrative order of closure.

Section 383.80 Conditional License

- a) The Department may issue a conditional license to a currently licensed program or facility when the Department determines that continued operation of the program or facility does not constitute a threat to the health, safety, morals or welfare of the children served. A complete listing of deficiencies and a corrective plan approved by the Department shall be in existence at the time a conditional license is issued. The licensing representative shall document compliance and progress with the conditional license agreement and corrective plan. When the licensing representative substantiates one or more new violations, documents a recurrence of one or more previously corrected violations, or documents noncompliance with any terms of the conditional license agreement, the licensing representative shall contact the licensing supervisor. The licensing supervisor shall notify the Regional Licensing Administrator, who shall determine an appropriate course of action that may include, but is not limited to, modifying the corrective plan, issuing an Administrative Order of Closure, or initiating proceedings to revoke the conditional license.
- b) The Department shall conduct an informal review to determine the appropriateness of offering a conditional license. Prior to issuing a conditional license, the Department shall revoke or refuse to renew the current license, or the licensee shall surrender the current license. (Surrender of the license is construed as a "surrender with cause" per [Section 383.95](#) of this Part.) Upon revocation, non-renewal or surrender of the license, the Department and licensee shall execute a conditional license agreement and the Department shall issue a conditional license to operate the facility.
- c) A conditional license shall be valid for six months and is not renewable or extendable.
- d) The licensee must comply with the terms of the conditional license agreement, correct all violations, be in full compliance with the Child Care Act and licensing standards by the end of the fifth month of the conditional license, and remain in full compliance until the date of expiration of the conditional license.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- e) The licensee must submit a new and complete initial application for licensure before the end of the third month of the conditional license in order for the application to be considered timely and sufficient.
- f) Failure by the licensee to comply with the conditional license agreement may result in the issuance of an administrative order of closure or denial of a new license.
- g) When a licensee does not submit a timely and sufficient application pursuant to subsection (e), or if a new license was denied, the Department shall not accept an application for another new license from the licensee until at least one year has elapsed from the expiration date of the conditional license.
- h) The Department shall not issue a conditional license to the holder of a permit.

(Source: Amended at 36 Ill. Reg. 13039, effective August 15, 2012)

Section 383.85 Notice of Intent to Revoke, Refuse to Renew, or Refuse to Issue Full License

- a) The Department shall provide written notice to a licensee or permit holder of intent to revoke a license, refuse to renew a license or refuse to issue a full license to a permit holder. The notice shall be hand delivered with a certificate of delivery or sent by certified mail, return receipt requested, to "the addressee only".
- b) The notice shall state:
 - 1) the Department's intended action and a short and plain statement of the matters that are the basis for the Department's action (the latter element may be satisfied by attaching a statement of charges);
 - 2) that the licensee or permit holder may request an administrative hearing if the licensee or permit holder disagrees with, and wishes the appointment of an Administrative Law Judge to review, the Department's intended action; and
 - 3) that a request for administrative hearing must be in writing and must be received by the Administrative Hearings Unit within 10 days from the postmark date of the notice. The request for administrative hearing must be hand-delivered, mailed or faxed to:

DCFS Administrative Hearings Unit
406 East Monroe, Station 15
Springfield, Illinois 62701
Fax: 217/557-4652

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- c) When the Department has issued a notice of intent to revoke, notice of refusal to renew or notice of refusal to issue a full license following an administrative order of closure, the licensee or permit holder may request that a hearing be scheduled within 21 days, as provided in [Section 383.110](#) of this Part.
- d) If the licensee or permit holder does not request an administrative hearing within the time frame set forth in this Section, or if the Department determines, upon holding an administrative hearing pursuant to [Subpart C](#) of this Part, that the license should be revoked or the renewal or full license denied, then the license shall be revoked or the renewal or full license shall be denied.

Section 383.90 Surrender of a License or Permit

- a) A licensee or permit holder may voluntarily surrender a license or permit to the Department or supervising agency.
- b) A licensee may surrender his or her foster home, day care home, group day care home, or day care center license by so stating, orally or in writing, to the licensing representative or supervising agency. A surrender that is given orally shall be confirmed in writing by the licensee or the licensing representative.
- c) A surrender for a program or facility other than a foster home, day care home, group day care home, or day care center shall be executed on a form prescribed by the Department. The licensee shall verify, in writing, whether:
 - 1) the Department is investigating the licensee, the permit holder or the owners, operators or employees of the facility for any licensing complaint or report of suspected abuse or neglect involving the facility or actions while discharging duties at the facility;
 - 2) litigation is pending between the licensee or permit holder, the facility and the Department; or
 - 3) the licensee suspects that the facility or facilities supervised by it are under investigation by any agency of any state, their respective inspectors general, or any local, State or federal law enforcement agencies.
- d) Surrender of a license or permit terminates all rights and privileges associated with the license or permit. A surrendered license or permit shall not be renewed, reissued, reinstated or restored.
- e) Failure by a foster home, day care home or group day care home licensee or permit holder to submit a completed application for address change to the Department or supervising agency prior to, or within 14 days after, a change of residence shall be deemed a surrender of the foster home, day care home, or group day care home license or permit.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- f) A licensed child welfare or day care agency shall attach to the surrender a complete listing of the names and addresses of all licensed child care programs and facilities supervised by the agency, any pending license applications that have not yet been determined by the supervising agency, and any license exempt day care homes, relative care homes, independent living facilities, youth transitional housing programs, or other programs for children and youth operated by the agency.
- g) When a surrender of a license or permit occurs after the Department has offered an informal review or issued an administrative order of closure, but before the Department has issued a notice of intent to revoke, refusal to renew, or refusal to issue full license, the Department shall notify the licensee or permit holder, in writing, that the surrender shall be construed as a "surrender with cause".
- h) Surrender of a license or permit after the Department has issued a notice of intent described in [Section 383.85](#) of this Part shall be deemed an abandonment of the licensee's or permit holder's right to seek review of the decision under [Subpart C](#) of this Part, and the license or permit shall be revoked or the renewal or full license shall be denied.

Section 383.95 Acquiring a New License After Surrender With Cause

When the licensing record reflects that a license or permit was surrendered "with cause", the Department shall not accept an application for a new license from the licensee or permit holder until at least one year has elapsed from the date of the surrender.

Section 383.100 Investigations of Complaints Concerning Unlicensed Facilities

- a) *Whenever the Department is advised, or has reason to believe, that any person, group of persons or corporation is operating a child welfare agency or a child care facility without a license or permit, it shall make an investigation to ascertain the fact. If the Department is denied access, it shall request intervention of local, county or State law enforcement agencies to seek an appropriate court order or warrant to examine the premises. [225 ILCS 10/11]*
- b) The licensing representative shall begin a licensing complaint investigation within 2 business days after receipt of the complaint by the Department's licensing unit and shall complete the investigation within 30 days after receipt of the complaint. However, upon written notice to the licensee, the investigation may be extended for an additional 30 days.
- c) The licensing representative shall:
 - 1) interview the person making the complaint, if known, and others who may have information relevant to the complaint;

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- 2) obtain and review any relevant documentation;
 - 3) make one or more unannounced visits to the program or facility, during the hours of operation, to gather information and evidence relevant to the complaint, and to determine whether the program or facility is being or has operated without a valid permit or license, or is exempt from licensure under the Child Care Act; and
 - 4) complete and document the licensing complaint investigation.
- d) At the conclusion of the licensing complaint investigation, the licensing representative shall determine whether the program or facility is subject to licensure by the Department and is operating without a valid permit or license, or is exempt from licensure under the Child Care Act, and shall document this finding.
 - e) Within 5 days after supervisory approval of the determination, the Department shall notify the operator of the program or facility, in writing, of the finding. The licensing representative shall provide notice to the operator, by certified mail, when, by law, a license is required for the type of child care provided. The notice shall explain how to make an application for a license.
 - f) Within 5 days after supervisory approval of the determination, the licensing representative shall notify the complainant, in writing, of whether the program or facility is operating without a valid permit or license, or is exempt from licensure under the Child Care Act.
 - g) *If the Department finds that the child welfare agency or child care facility is being, or has been, operated without a license or permit, the Department shall report the results of its investigation to the Attorney General and to the appropriate State's Attorney for investigation and, if appropriate, prosecution.*
[225 ILCS 10/11]
 - h) If the operator continues to operate the program or facility and does not make efforts to obtain a license, the Department may issue an administrative order of closure when the Department makes a finding in accordance with [Section 383.105](#) of this Part. The Department shall report the matter to the Attorney General, and to the State's Attorney for the county in which the program or facility is located, for prosecution.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.105 Administrative Order of Closure

- a) *Whenever the Department expressly finds that the continued operation of a child care facility, including such facilities defined in Section 2.10 of the Child Care Act and unlicensed facilities, jeopardizes the health, safety, morals, or welfare of children served by the facility, the Department shall issue an order of closure directing that the operation of the facility terminate immediately, and, if applicable, shall initiate revocation proceedings under Section 9 of the Child Care Act within 10 working days. A facility closed under this Section may not operate during the pendency of any proceeding for the judicial review of the decision of the Department to issue an order of closure or to revoke or refuse to renew the license, except under court order. [225 ILCS 10/11.2]*
- b) All administrative orders of closure shall be issued in writing by the Director.
- c) An administrative order of closure shall be hand-delivered to the licensee or permit holder.

Section 383.110 Appeal After Issuance of an Administrative Order of Closure

- a) When the Department has issued a notice of intent to revoke, refusal to renew or refusal to issue a full license following an administrative order of closure, the licensee or permit holder may request that a hearing be scheduled within 21 days. The request shall be directed to the Department's Administrative Hearings Unit and shall specifically state that the Department has served an administrative order of closure on the program or facility and has served the requisite notice of intent on the licensee, and that a hearing date within 21 days is requested.
- b) Upon receipt of the request for a hearing, the Chief Administrative Law Judge shall verify with the Regional Licensing Administrator that an administrative order of closure and notice of intent were served. Upon verification, a hearing date shall be scheduled within 21 days after the date the appellant's written request for administrative hearing was received.
- c) The Administrative Law Judge shall present a written opinion and recommendation to the Director within 21 days after the record of the administrative hearing is completed. Upon agreement of the parties, the time frame for completion of the written opinion and recommendation may be extended.
- d) The Director shall issue a final administrative decision within 7 days after receipt of the Administrative Law Judge's recommended decision.
- e) All other requirements in [Subpart C](#) of this Part not in conflict with the provisions in this Section shall apply to hearings after issuance of an administrative order of closure.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

SUBPART C: ADMINISTRATIVE HEARINGS

Section 383.115 Who May Request an Administrative Hearing

- a) A licensee or permit holder has the right to request an administrative hearing to review an enforcement action listed in [Section 383.120](#) of this Part, personally or by:
 - 1) an authorized representative, including an attorney, authorized in writing by a party to assist in the administrative hearing process; or
 - 2) an individual legally authorized to act on behalf of the licensee or permit holder when the licensee or permit holder is incompetent, incapacitated, or otherwise unable to speak for him/herself. A certified copy of the court order authorizing the individual to act on behalf of the licensee or permit holder must be provided.

- b) If a licensee or permit holder has an authorized representative or an individual legally acting on his or her behalf, that representative or individual may exercise the rights of the licensee or permit holder in the administrative hearing process. These rights include the right to:
 - 1) review and copy record material;
 - 2) receive Department notices;
 - 3) speak in the administrative hearing process; and
 - 4) take any other actions permitted an appellant during the administrative hearing process.

Section 383.120 What May Be Reviewed Through the Administrative Hearing Process

The following decisions may be reviewed through the administrative hearing process under this Part:

- a) revocation of a license;
- b) refusal to renew a license; and
- c) refusal to issue a full license to the holder of a permit.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.125 What May Not Be Reviewed Through the Administrative Hearing Process

The Chief Administrative Law Judge shall decide whether an issue is appropriate for the administrative hearing process pursuant to this Part. The following circumstances are not appropriate for the administrative hearing process under this Part:

- a) the Department has already made a final administrative decision on the issue as a result of a previous administrative hearing;
- b) the issue does not involve a decision to revoke a license, refuse to renew a license, or refuse to issue a full license to the holder of a permit;
- c) a court has made a judicial decision on the issue sought to be reviewed through the administrative hearing process;
- d) denial of a license or a permit;
- e) a disagreement about the terms and conditions contained in a conditional license agreement;
- f) a disagreement about the terms and conditions contained in a corrective plan or protective plan;
- g) when the licensee or permit holder has surrendered the license or permit;
- h) denial of a new license upon expiration of a conditional license; or
- i) the matter is reviewable under another administrative rule.

Section 383.130 The Right to Request an Administrative Hearing

- a) The appellant must file a timely and sufficient appeal within 10 days after the postmark date of the notice of intent issued per [Section 383.85](#) of this Part.
- b) The notice of intent shall include clear instructions on how to request and receive an administrative hearing.
- c) This explanation shall be provided in writing in the appellant's primary language.
- d) When requested, Department staff shall assist the licensee or permit holder in preparing a written request for an administrative hearing.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.135 Notices of Department Decisions

- a) The following notices shall be hand delivered with a certificate of delivery or sent by certified mail, return receipt requested, to "the addressee only":
 - 1) the Department's notice of intent issued per [Section 383.85](#) of this Part;
 - 2) notice of an administrative hearing; and
 - 3) the final administrative decision.
- b) All other notices referenced in this Subpart shall be sent by regular mail.

Section 383.140 The Role of the Chief Administrative Law Judge

- a) The Chief Administrative Law Judge may grant a request for an administrative hearing when:
 - 1) the original written request for an administrative hearing was received by the Chief Administrative Law Judge within 10 days after the postmark of the notice of intent issued per [Section 383.85](#) of this Part. The date of request for an administrative hearing is the postmark on the appellant's request for an administrative hearing; and
 - 2) the issue is within the jurisdiction of this Part as set forth in [Section 383.120](#).
- b) The Chief Administrative Law Judge may dismiss a request for an administrative hearing for the following reasons:
 - 1) the matter is not reviewable because the Department has not provided written notice to the licensee or permit holder of intent to revoke a license, refuse to renew a license or refuse to issue a full license to a permit holder, as provided in [Section 383.85](#) of this Part;
 - 2) the request for administrative hearing was not submitted to the Chief Administrative Law Judge in writing within the time frame set out in [Section 383.85](#) of this Part;
 - 3) the appellant has withdrawn the request for an administrative hearing in writing; or
 - 4) the appellant has abandoned his or her request for an administrative hearing. Grounds for abandonment include:
 - A) failure by the appellant or the appellant's authorized representative, without good cause, to appear at a hearing or pre-hearing conference;

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- B) surrender of the license or permit after requesting an administrative hearing; or
 - C) failure by the appellant to notify the Chief Administrative Law Judge of a change of address and a notice of the administrative hearing, sent to the appellant's last known address, was returned as "undeliverable", "unclaimed", "refused", "moved", or "no forwarding address".
- c) A party seeking to vacate an order of abandonment shall file a motion within 14 days after notice of the entry of an order of abandonment or default, showing good cause why the party failed to appear or participate.
- d) The Chief Administrative Law Judge shall provide written notice of the decision to grant or deny the request for an administrative hearing within 30 days after receipt of the request for an administrative hearing. If the Chief Administrative Law Judge finds that the issue is not reviewable under this Subpart but can be appropriately heard through another appeal process, in accordance with 89 Ill. Adm. Code 435 (Administrative Appeals and Hearings), the Department shall forward the request to the proper hearing authority and notify the appellant of this action.
- e) If a request for an administrative hearing is granted, the notice issued by the Chief Administrative Law Judge to the appellant shall provide:
- 1) a hearing date within 30 days after the date the appellant's written request for administrative hearing was received;
 - 2) a location for the hearing at a time and place reasonably convenient for all parties;
 - 3) If the appellant is a foster family home licensee, a statement that a telephonic hearing in lieu of an in-person hearing may be scheduled when the decision to revoke or refuse to renew a foster family home license is based solely upon an allegation that the licensee did not file a timely and/or complete application for renewal of the foster family home license. However, the notice of hearing shall state that the appellants (foster parents) have the right to request an "in person" hearing. The appellants may exercise their right by sending a written request for an "in person" hearing within 15 days after the date of the notice of hearing;
 - 4) a statement of the parties' rights during the administrative hearing process;
 - 5) the name and address of the licensee or permit holder, if not represented by counsel, or the name of the licensee and the name and address of the counsel, if represented by counsel;

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- 6) the name and business address of the Department representative for the administrative hearing;
 - 7) a citation to Section 9 of the Child Care Act that grants the Department the legal authority and jurisdiction to hold the hearing;
 - 8) a reference to the particular Sections of the statutes and administrative rules involved. This element may be satisfied by attaching a statement of charges;
 - 9) a short and plain statement of the matters that are the basis of the complaint. This element may be satisfied by attaching a statement of charges;
 - 10) the reasons that may be deemed an abandonment under [Section 383.140](#) of this Part and the cause for the entry of a final administrative decision before hearing;
 - 11) the docket number assigned to the case;
 - 12) the name and mailing address of the Administrative Law Judge and any other parties, unless the names or addresses are confidential under the Abused and Neglected Child Reporting Act or Department of Children and Family Services Act, or other applicable statute; and
 - 13) a statement of the action sought.
- f) All administrative hearings conducted pursuant to this Part are open to the public, except that portions of the hearing may be closed when combined with matters concerning the Abused and Neglected Child Reporting Act or 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services).

Section 383.145 Rights and Responsibilities in Administrative Hearings

- a) An appellant may bring a representative, including legal counsel, to the hearing. Expenses of a representative or of an appellant's witnesses shall be paid by the appellant.
- b) An appellant may request the licensing representative or other persons who may have information relevant to the issues in dispute to attend the hearing by asking the Chief Administrative Law Judge to issue appropriate subpoenas. Witness fees and travel expenses for persons other than Department or supervising agency employees are the responsibility of the party requesting the subpoena.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- c) Any motions from the appellant or the Department shall be filed with the Administrative Law Judge at least 10 calendar days before the hearing. Copies shall be sent to the Department's representative and the appellant.
- d) At the appellant's request, the Department shall provide an interpreter at no cost to the appellant if English is not the appellant's primary language or a sign interpreter if the appellant is hearing impaired.
- e) Both the appellant and the Department have the right to examine and copy documents and other information to be used by either party and to receive a list of witnesses to be called by either party at the hearing by requesting them at least 10 calendar days before the hearing. The Administrative Law Judge may prohibit the introduction of the requested evidence if not provided within the time frame.
- f) At any time prior to the commencement of the administrative hearing, the Department may amend the statement of charges to include subsequent acts or omissions in violation of the Child Care Act or licensing standards of which the Department has provided the appellant notice.
- g) At any time prior to the entry of a final administrative order, the appellant may withdraw the request for an administrative hearing and accept the Department's decision to revoke, refuse to renew or refuse to issue a full license, or may abandon the right to an administrative hearing by surrendering the license.
- h) During the administrative hearing, the appellant and the Department have the right to:
 - 1) present and question witnesses;
 - 2) present any information relevant to the issues;
 - 3) question or disprove any information, including an opportunity to question opposing witnesses; and
 - 4) dispose of any disputed issue by stipulation, agreed settlement, consent order, or default any time prior to the conclusion of the administrative hearing.
- i) The Department:
 - 1) carries the burden of proof of justifying the decision to revoke a license, refuse to renew a license, or refuse to issue a full license to a permit holder; and
 - 2) must prove that a preponderance of the evidence supports the decision.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.150 The Administrative Law Judge

a) Appointment of the Administrative Law Judge

The Chief Administrative Law Judge shall select and the Director shall appoint a trained, impartial Administrative Law Judge from the available pool to conduct the administrative hearing. The Administrative Law Judge shall:

- 1) be an attorney licensed to practice law in the State of Illinois;
- 2) possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law, including familiarity with Department rules, procedures and functions;
- 3) not have been involved in the decision to take the action being reviewed or have rendered legal advice to the decision maker on the issue; and
- 4) not have a personal or professional interest that interferes with exercising objectivity or have any bias against the parties or issues reviewed. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.

b) Functions of the Administrative Law Judge

The Administrative Law Judge shall have all authority allowed under the Illinois Administrative Procedure Act [5 ILCS 100]. This authority shall include, but is not limited to, the following:

- 1) conduct a fair, impartial and formal hearing in which the strict rules of evidence do not apply;
- 2) provide for the recording of the hearing;
- 3) inform participants of their individual rights and their responsibilities;
- 4) conduct preliminary and prehearing telephone conferences, if necessary, between the parties and/or their representatives to provide information about the procedural aspects of the hearing, narrow the issues and discuss possible stipulations and contested points of law, in order to expedite the actual hearing;
- 5) take necessary steps to develop a full and fair record that contains all relevant facts. The Administrative Law Judge shall admit any evidence having probative value that is relevant and material to the facts in issue, subject to objections only as to the weight to be given such evidence;

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

- 6) administer an oath or an affirmation to all witnesses;
- 7) quash or modify subpoenas for good cause, including, but not limited to, relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;
- 8) preserve all documents and evidence for the record;
- 9) ask questions of any witnesses called to testify;
- 10) for good cause shown, permit a witness to testify at the hearing by telephone;
- 11) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;
- 12) order the removal of any person from the hearing room who is creating a disturbance, whether by physical actions, profanity or other conduct that disrupts the hearing;
- 13) identify the issues, consider all relevant facts and receive or request any additional information necessary to decide the matter in dispute, including, but not limited to, the submission of briefs, memoranda of law, affidavits or post hearing briefs; and
- 14) present a written opinion and recommendation to the Director within 30 calendar days after the record of the administrative hearing is completed or transcript is received, unless an extension is granted by the Chief Administrative Law Judge. The report shall include a recommended decision on whether there is a preponderance of evidence, based on information considered at the hearing contained in the administrative record, to support the Department's decision to revoke a license, refuse to renew a license, or refuse to issue a full license to a permit holder. The opinion shall contain findings of fact, conclusions of law and a recommendation.

LICENSING ENFORCEMENT
September 27, 2012 – PT 2012.17

Section 383.155 Final Administrative Decision

a) Making the Final Administrative Decision

The Director shall receive the recommended decision from the Administrative Law Judge and shall agree, disagree, or modify the recommended decision based upon a preponderance of evidence standard. The Director's decision is the final administrative decision of the Department. If the decision requires corrective action by the Department, the Director shall appoint a Department staff person who shall be responsible for assuring compliance with the decision.

b) Notice of the Availability of Judicial Review

The Department shall include a notice to the appellant as part of the final administrative decision. This notice shall include the name of the person responsible for compliance, if applicable, and shall advise the appellant that, under the provisions of the Administrative Review Law [735 ILCS 5/Art. III], the appellant may seek judicial review of the Department's decisions if it is unfavorable to him or her, within the statutory time frame.

c) Who Receives Copies of the Final Administrative Decision

The appellant or authorized representative, the Department or supervising agency licensing representative and licensing supervisor, the Central Office of Licensing, the Department's representative, the Administrative Law Judge, and the Chief Administrative Law Judge shall receive a copy of the final administrative decision.

Section 383.160 Records of Administrative Hearings

The Chief Administrative Law Judge shall maintain the permanent record of the administrative hearing and the final administrative decision. All hearing decisions shall be available for public inspection during regular business hours. However, confidential information shall be deleted in conformance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department), and State and federal laws and rules and regulations on confidentiality.

SUBPART D: SEVERABILITY OF THIS PART

Section 383.165 Severability of This Part

If any court of competent jurisdiction finds that any Section, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

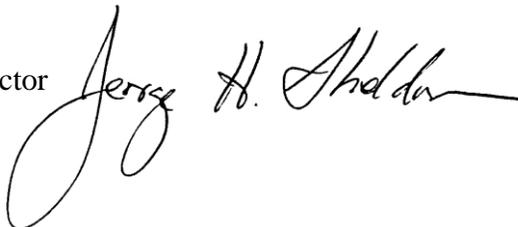
POLICY GUIDE 2016.08

Procedures 300 Reports of Child Abuse and Neglect
Rule 300 Reports of Child Abuse and Neglect
Rule 383 Licensing Enforcement

DATE: June 15, 2016

TO: SCR Child Welfare Specialists, Supervisors and Administrators; Child Protection Specialists, Supervisors and Administrators; AHU Administrative Law Judges and Administrators; Licensing Representatives, Supervisors and Administrators

FROM: George H. Sheldon, Director



EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to provide instruction to SCR, Child Protection, AHU and Licensing staff for the implementation of changes in policy and procedure, as required by recent changes to ANCRA (PA 99-0350). The instructions in this Policy Guide and other recent changes to ANCRA (PA 99-0350) will be incorporated into **Rule and Procedures 300, Appendix B The Allegations System, and Rule 383, Licensing Enforcement.**

This Policy Guide is effective immediately.

II. PRIMARY USERS

Primary users are SCR Child Welfare Specialists and Supervisors, Child Protection Specialists and Supervisors, Administrative Law Judges and Licensing Representatives and Supervisors.

III. BACKGROUND

This policy sets forth the principles and procedures for reporting and investigating specific types of incidents of abuse and neglect in the lives of youth/adult residents that DCFS provides services and supports to and/or who are placed with an agency, as defined in Section 3 of the Abused and Neglected Child Reporting Act:

(325 ILCS 5/3) (from Ch. 23, par. 2053)

"Agency" means a child care facility licensed under Section 2.05 or Section 2.06 of the Child Care Act of 1969 and includes a transitional living program that accepts children and adult residents for placement who are in the guardianship of the Department.



(225 ILCS 10/2.05) (from Ch. 23, par. 2212.05)

Sec. 2.05. "Facility for child care" or "child care facility" means any person, group of persons, agency, association, organization, corporation, institution, center, or group, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in this Act, established and maintained for the care of children. "Child care facility" includes a relative, as defined in Section 2.17 of this Act, who is licensed as a foster family home under Section 4 of this Act.

(Source: P.A. 98-804, eff. 1-1-15.)

Sec. 2.06. "Child care institution" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

(a) Any State-operated institution for child care established by legislative action;

(b) Any juvenile detention or shelter care home established and operated by any county or child protection district established under the "Child Protection Act";

(c) Any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act;

(d) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or taught in public elementary schools, high schools, or both elementary and high schools, and which operates on a regular academic school year basis; or

(e) Any facility licensed as a "group home" as defined in this Act.

IV OVERVIEW

Public Act 99-0350 amends, among other Acts, Section 5/3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3] with respect to the definition of "Agency," "Abused Child," and "Blatant Disregard." The Department shall initiate immediate changes to practice, with subsequent changes to be placed in rule and procedure, for the implementation of the following requirements that provide for the reporting and investigation of incidents of abuse and neglect that occur in agency settings as a result of systemic problems within the agency or when the perpetrator of abuse or neglect cannot be identified.

- With respect to "blatant disregard," to address the failure of an agency to implement practices and maintain an environment and conditions that ensure the health, physical well-being or welfare of a child or adult resident; and

- The implementation of criteria and standards for the acceptance and investigation of reports of abuse or neglect committed by an agency, as “agency” is defined in Section 3 of ANCRA, or person working for an agency who is responsible for the welfare of a child or adult resident.

Accepting reports and conducting investigations of Neglect by Agency include, but are not limited to, the following situations:

- An incident or situation where the agency is providing services to a ward of the court and/or under the guardianship of DCFS;
- An incident or situation can occur whether or not the alleged victim is physically at a site owned, leased or operated by the agency;
- An incident or situation where agency personnel (staff, interns, contractors, consultants, and/or volunteers) are, or should have been, physically present and providing services at that point in time;
- Any situation involving physical conditions at a site provided by the agency, even in the absence of agency personnel;
- A report shall not be determined to be indicated or unfounded solely because a subject of a report resigns his/her position during the investigation; and
- A concurrent final finding determination may be made that indicates both an individual perpetrator and a systemic agency problem for having caused or contributed to the incident of harm.

V. INSTRUCTIONS

SCR

When assessing a potential report that includes information that may qualify for **Allegation #86**, hotline staff shall determine whether the information provided by the caller meets the standard of the associated harm and of “blatant disregard,” as codified in Rule and set forth in DCFS procedure. Specifically, hotline staff must determine whether the information provided by the reporter indicates that agency environment and conditions expose a child or adult resident to harm, risk of harm or a lack of necessary care, including but not limited to, adequate supervision, food, clothing and shelter and that the harm the child or adult resident has been subjected to is injurious to the extent agency staff culpability is mitigated by systemic problems, such as inadequate staffing, management, training or supervision. Also included in this allegation are incidents of harm when the perpetrator cannot be identified.

Hotline staff should evaluate the caller’s information for applicable Circumstances and Factors To Be Considered, as set forth in DCFS Rule and Procedure. Reports that include **Allegation #86** shall be processed, completed and transmitted according to current procedures.

Child Protection

Once a Child Protection Specialist determines a report that includes **Allegation #86** was made in good faith, the Child Protection Specialist shall continue the investigation by applying the criteria and fulfilling the requirements of the allegation, as well as current investigatory procedures and practice, in order to reach a final finding determination.

Allegation of Harm #86 NEGLECT BY AGENCY

a) Definition

Neglect by Agency

Neglect by Agency means the failure of an agency to implement practices that ensure the health, physical well-being or welfare of the children or adult residents residing in the facility, and/or there are conditions at the agency that expose children or adult residents to harm, risk of harm or a lack of other necessary care, including but not limited to, adequate supervision, food, clothing and shelter; or a child or adult resident is subjected to an environment that is injurious to the extent staff culpability for abuse or neglect is mitigated by systemic problems, such as inadequate staffing, management, training or supervision of staff; and/or an incident of abuse or neglect against a child or adult resident where the perpetrator of such harm cannot be identified.

b) Taking a Report

- 1) A service recipient/youth has been exposed to harm or risk of harm due to the blatant disregard of caregiver responsibilities by the agency responsible for the youth's welfare. (NEGLECT)

c) Investigating a Report

- 1) Required Contacts:

All contacts and attempted contacts must be documented in a contact note within 48 hours.

- A) Interview the CEO/Executive Director of the agency.
- B) A waiver of any of the above requirements must be approved by the Child Protection Supervisor and may require approval by the Area Administrator. Details of the request and the Supervisor's decision must be documented in a supervisory note.

2) Required Activities:

All investigative activities must be documented in a contact or case note within 48 hours.

A) Consultation with the Area Administrator must occur prior to closing the investigation.

3) Documentation Required

A) There is evidence that documents that a youth has been exposed to harm or risk of harm.

B) A waiver of any of the above requirements must be approved by the Child Protection Supervisor and may require approval by the Area Administrator. Details of the request and the Supervisor's decision must be documented in a supervisory note.

4) Assessment of Factors and Evidence to Determine a Finding

A) Documentation of a detailed analysis of all inculpatory and exculpatory evidence has been reviewed and considered and any conflicting evidence has been resolved to the extent possible.

B) The Child Protection Specialist and Child Protection Supervisor shall have a formal supervisory conference to assess all inculpatory and exculpatory evidence obtained during the course of the investigation in order to reach an investigative finding. The supervisory consultation must be documented in a supervisory note.

Child Protection and Licensing Concurrent Investigations

The Child Protection Specialist shall immediately notify the local DCFS Licensing Representative of the investigation. A concurrent licensing complaint investigation shall be performed for all Department and private agency foster homes, day care homes and all other licensed facilities named in reports of alleged incidents of abuse or neglect. For all reports that include **Allegation #86**, current practice and procedures apply for conducting concurrent Child Protection and Licensing investigations. For instruction and information concerning concurrent Child Protection and Licensing investigations, staff should reference **Procedures 300.110, Special Types of Reports and Procedures 383.37, Additional Requirements for Concurrent Investigations.**

Licensing/Monitoring

For a report with an indicated **Allegation #86, Neglect by Agency**, DCFS Licensing shall apply the current practice and procedure for requiring the indicated facility to develop and implement a Corrective Plan for the agency conditions that led to the indicated report and violation of licensing standards. The Corrective Plan shall identify any systemic problem that led to the indicated final finding determination and include suggested corrective measures.

Corrective Plans must be approved by the Licensing Supervisor and monitored by the Licensing Representative. In reviewing the continued qualifications of a facility for an operating license, the Department shall evaluate the facility's compliance with any Corrective Plan resulting from an indicated report or licensing investigation and take appropriate enforcement action for repeated failure to correct identified problems, in accordance with applicable state law and regulation. Such enforcement action may include, but not be limited to, revoking a license; refusing to renew a license; or refusing to issue a full license, subsequent to a permit. All licensees and permit holders are afforded due process rights through AHU for any action taken.

Administrative Hearings

An individual or agency that has been indicated as a perpetrator and who has received notice of the indicated final finding determination made against them has the right to challenge the decision by requesting an appeal of the indicated finding.

To begin the appeal process, the perpetrator or appropriate officer/administrator/owner of the agency shall request in writing on the form provided that the Department review its decision. The request must be mailed or faxed to the address or fax number designated in the written notice within 60 days after notification of the completion of the investigation, as determined by the date of the notification sent by the Department.

Special Note: It is possible for an appellant/agency to have concurrent hearings to appeal a licensing enforcement action and an indicated report for child abuse or neglect. When common issues of fact or law are raised in more than one appeal, the Chief Administrative Law Judge may consolidate the appeals into a single group hearing.

VI. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

VII. FILING INSTRUCTIONS

This Policy Guide should be filed immediately after **Rule and Procedures 300, Appendix B and Rule 383, Subpart C**.

LICENSING ENFORCEMENT

March 14, 2008 – PT 2008.06

APPENDIX A: Statutory Grounds for Revocation or Refusal to Renew a License

a) *Revocation or Refusal to Renew Licenses; Grounds.*

The Department may revoke or refuse to renew the license of any child care facility or child welfare agency or refuse to issue a full license to the holder of a permit should the licensee or holder of a permit:

- 1) *fail to maintain standards prescribed in Title 89, Chapter III, subchapter e: Requirements for Licensure;*
- 2) *violate any of the provisions of the license issued;*
- 3) *furnish or make a misleading or any false statement or report to the Department;*
- 4) *refuse to submit to the Department any reports or refuse to make available to the Department any records required by the Department in making investigation of the facility for licensing purposes;*
- 5) *fail or refuse to submit to an investigation by the Department;*
- 6) *fail or refuse to admit authorized representatives of the Department at any reasonable time for the purposes of investigation;*
- 7) *fail to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child care as required under standards prescribed by the Department, or as otherwise required by any law, regulation or ordinance applicable to the location of the facility;*
- 8) *refuse to display its license or permit;*
- 9) *be the subject of an indicated report under Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5] or fail to discharge or sever affiliation with the child care facility of an employee or volunteer at the facility with direct contact with children who is the subject of an indicated report under Section 3 of that Act;*
- 10) *fail to comply with the provisions of Section 7.1 of the Child Care Act;*
- 11) *fail to exercise reasonable care in the hiring, training and supervision of facility personnel;*
- 12) *fail to report suspected abuse or neglect of children within the facility, as required by the Abused and Neglected Child Reporting Act;*

LICENSING ENFORCEMENT

March 14, 2008 – PT 2008.06

- 13) *fail to comply with Section 7.4(c-5) of the Child Care Act;*
- 14) *fail to comply with Section 5.1 or 5.2 of the Child Care Act; or*
- 15) *be identified in an investigation by the Department as an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301], or be a person whom the Department knows has abused alcohol or drugs, and has not successfully participated in treatment, self-help groups or other suitable activities, and the Department determines that because of such abuse the licensee, holder of the permit, or any other person directly responsible for the care and welfare of the children served, does not comply with standards relating to character, suitability or other qualifications established under Section 7 of the Child Care Act. [225 ILCS 10/8]*

b) *Further Grounds for Revocation or Refusal to Renew Licenses.*

The Department shall revoke or refuse to renew the license of any child care facility or refuse to issue a full license to the holder of a permit should the licensee or holder of a permit:

- 1) *fail to correct any condition that jeopardizes the health, safety, morals, or welfare of children served by the facility;*
- 2) *fail to correct any condition or occurrence relating to the operation or maintenance of the facility comprising a violation under Section 8 of the Child Care Act; or*
- 3) *fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises, and provisions for personal care, medical services, clothing, education and other essentials in the proper care, rearing and training of children. [225 ILCS 10/8.1]*

LICENSING ENFORCEMENT
March 14, 2008 – PT 2008.06

APPENDIX B: Resource Reference List

- a) Laws of the State of Illinois
 - 1) Abused and Neglected Child Reporting Act [325 ILCS 5]
 - 2) Administrative Review Law [735 ILCS 5/Art. III]
 - 3) Child Care Act of 1969 [225 ILCS 10]
 - 4) Children and Family Services Act [20 ILCS 505]
 - 5) Illinois Administrative Procedure Act [5 ILCS 100]
 - 6) Juvenile Court Act of 1987 [705 ILCS 405]

- b) Administrative Rules of the Illinois Department of Children and Family Services
 - 1) 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect)
 - 2) 89 Ill. Adm. Code 331 (Unusual Incidents)
 - 3) 89 Ill. Adm. Code 357 (Purchase of Service)
 - 4) 89 Ill. Adm. Code 401 (Licensing Standards for Child Welfare Agencies)
 - 5) 89 Ill. Adm. Code 405 (Licensing Standards for Day Care Agencies)
 - 6) 89 Ill. Adm. Code 409 (Licensing Standards for Youth Transitional Housing Programs)
 - 7) 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department)
 - 8) 89 Ill. Adm. Code 435 (Administrative Appeals and Hearings)

LICENSING ENFORCEMENT
March 14, 2008 – PT 2008.06

This page intentionally left blank.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

POLICY GUIDE 2015.04

INTAKE HOLDS ON CHILD CARE AGENCIES AND INSTITUTIONS

DATE: February 9, 2015

TO: DCFS and POS Child Welfare and Licensing Staff and Supervisors

FROM: Cynthia L. Tate, Ph.D., Interim Director 

EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to inform Department and Purchase of Services (POS) Child Welfare and Licensing staff and Supervisors of the Department's policy concerning "holds" on a licensed child care agency or institution's intake.

II. PRIMARY USERS

The primary users of this policy guide are DCFS and POS Child Welfare and Licensing Staff and Supervisors.

III. BACKGROUND

The Department currently places intake "holds" on licensed child welfare agencies and institution when implementing corrective and protective plans in accordance with residential contract program plans and other policy governing corrective and protective plans. This Policy Guide further explains residential intake "holds" and anticipates rulemaking that will formalize the process.

IV. SUMMARY

The Department may place a "hold" on the agency's intake when an agency's performance, failure to adhere to the Department's licensing standards, or a significant singular event (e.g., physical or mental abuse, death, or something of similar significance) poses a substantial risk of harm to children or youth in care. No additional children or youth will be placed in the facility and the population may be clinically reassessed to determine the appropriateness of existing children's continued placement. The primary purpose of the intake "hold" is to allow the agency to identify and implement the necessary corrective actions and demonstrate the sustainability of the corrections.

- Except as noted below, any intake “hold” will be applied initially for 60 days, unless reason for the “hold” poses no immediate risk of harm to the children in care. The “hold” may be extended past 60 days if sustained corrective actions are not observed and/or subsequent instances of the same or similar reasons that led to the “hold” to occur.
- During the “hold” all Department and POS staff will be allowed unfettered access to the physical plant, files, agency staff, and children to observe progress toward corrective actions, quality improvement and safety.
- Any “hold” may be removed during or after the initial 60 day period when the DCFS Agency & Institution manager determines that the agency has fully implemented all corrective actions and quality improvements and children can safely be cared for within the facility.

The Department will propose amendments to appropriate rules to comport with this Policy Guide. Licensing staff shall immediately implement the new standards.

V. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

VI. FILING INSTRUCTIONS

File this Policy Guide immediately following Rules 383, Licensing Enforcement.