

WAC 110-300-0440 Facility licensing compliance agreements, non-referral status, probationary license, and provider rights. (1) At the department's discretion, when an early learning provider is in violation of this chapter or chapter 43.216 RCW, a facility licensing compliance agreement (FLCA) may be issued in lieu of the department taking enforcement action. The FLCA must contain:

(a) A description of the violation and the law or rule that was violated;

(b) A proposed plan from the provider or a designee to comply with the law or rule;

(c) The date the violation must be corrected, determined by:

(i) The seriousness of the violation;

(ii) The potential threat to the health, safety, and well-being of the children in care; and

(iii) The number of times the early learning program has violated rules in this chapter or under chapter 43.216 RCW.

(d) Information regarding other licensing action that may be imposed if compliance does not occur by the required date;

(e) The signature of the department licenser and the licensee.

(2) An early learning provider must return a copy of the completed FLCA to the department after corrective action has been completed and by the date indicated.

(3) An early learning provider may request an internal review process regarding the violation of department rules pursuant to RCW 43.216.395.

(4) In an enforcement action against an early learning program or provider, the provider has the right to:

(a) Refuse to accept or sign a FLCA.

(b) Refuse to agree to a probationary license.

(5) If an early learning provider refuses a FLCA or probationary license, this may result in any of the following enforcement actions:

(a) Modification of the license;

(b) Noncontinuation of a nonexpiring license;

(c) Suspension of the license;

(d) Revocation of the license; or

(e) Civil penalties.

(6) The department may place an early learning provider on nonreferral status, pursuant to RCW 43.216.325(4), in addition to or in lieu of an enforcement action under this chapter.

(7) A probationary license may be issued to an early learning provider or program operating under a nonexpiring license as part of a corrective action plan. Prior to issuing a probationary license, the department must refer the program or provider for technical assistance, pursuant to RCW 43.216.320(2).

(8) A department decision to issue a probationary license is based on an early learning program or provider's:

(a) Negligent or intentional noncompliance with the licensing rules;

(b) History of noncompliance with licensing rules;

(c) Current noncompliance with licensing rules;

(d) Fire safety inspection or health and sanitation inspection report that failed to gain approval;

(e) Use of unauthorized space for child care;

(f) Inadequate supervision of children;

(g) Understaffing for the number of children in care;

(h) Noncompliance with requirements addressing children's health, proper nutrition, discipline, emergency medical plan, sanitation or personal hygiene practices; and

(i) Any other factors relevant to the specific situation and consistent with the intent or purpose of chapter 43.216 RCW.

(9) When the department issues a probationary license, the early learning provider must:

(a) Provide notice of the probationary license and a copy of the department's probationary licensing agreement to the parents or guardians of enrolled children within five business days of receiving the probationary license;

(b) Provide documentation to the department that parents or guardians of enrolled children have been notified within ten business days of receiving the probationary license;

(c) Inform new parents or guardians of the probationary status before enrolling new children into care;

(d) Return the early learning program's nonexpiring license to the department; and

(e) Post documentation of the approved written probationary license as required by RCW 43.216.687.

(10) Pursuant to RCW 43.216.689, an early learning provider must have inspection reports and notices of enforcement actions for the past three years readily available for review by the department, parents, and the public.

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