

IDAPA 16.06.02.100

100. LICENSING.

The purpose of licensing is to set minimum standards and to monitor compliance. Persons applying for licensure need to be physically and emotionally suited to protect the health, safety and well-being of the children in their care. Physical surroundings must present no hazards to the children in care. (4-7-11)

01. Responsibilities of the Foster Parent or Operator. A foster parent or operator must conform to the terms of the license. (4-7-11)

02. Responsible for Knowledge of Standards.The foster parent or operator is responsible for knowing the standards and rules applying to the type of foster home, children's residential care facility, children's agency, children's therapeutic outdoor program, children's camp, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, covered by the license, and for conforming to them at all times. (4-7-11)

03. Responsible for Agency Staff Knowledge. The operator of a child care facility or agency is responsible for ensuring that all staff members are familiar with the applicable rules governing the children's residential care facility, children's therapeutic outdoor program, children's agency, children's camp, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department. A copy of these rules is available from the Office of the Administrative Rules Coordinator, 650 W. State Street, Boise ID 83720, or on the Office of the Administrative Rules Coordinator's website, <http://adm.idaho.gov/adminrules/>. (4-7-11)

04. Return of License. The foster parent or operator must immediately return his license to the Department under any of the following circumstances: (4-7-11)

- a. Changes of management or address; (4-7-11)
- b. Upon suspension or revocation of the license by the Department; or (4-7-11)
- c. Upon voluntary discontinuation of service. (3-30-01)

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101. APPLICATIONS FOR LICENSE.

An application for a license must be submitted to the Department. Licensing studies will follow the format of these rules and will contain a specific recommendation regarding the terms of the license. All foster homes, children's agencies, children's therapeutic outdoor programs, children's camps, daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, and children's residential care facilities must also comply with applicable Idaho city and county ordinances. (4-7-11)

IDAPA 16.06.02.102

102. DISPOSITION OF APPLICATIONS.

The Department will initiate action on each completed application within thirty (30) days after receipt that addresses each requirement for the specific type of home, facility, or agency. Upon receipt of a completed application and study, the licensing authority will review the materials for conformity with these rules. (4-7-11)

01. Approval of Application. A license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential facility, children's therapeutic outdoor program, children's camp, or children's agency found to be in conformity with these rules governing the home or facility. The license is issued according to the terms specified in the licensing study and will be mailed to the applicant. (4-7-11)

02. Regular License. A regular license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency found to be in conformity with these rules governing the facility and will specify the terms of licensure, such as: (4-7-11)

a. Full time or daycare; (3-30-01)

b. The number of children who may receive care at any one (1) time; and (3-30-01)

c. Age range and gender, if there are conditions in the foster home or children's residential care facility making such limitations necessary; (3-30-01)

d. The regular license for a foster home, children's agency, children's residential care facility, children's therapeutic outdoor program, or children's camp is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; (4-7-11)

e. A regular license for a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department is in effect for two (2) years from the date of issuance unless suspended or revoked earlier; and (4-7-11)

f. If the license for a foster home is for a specific child only, the name of that child will be shown on the foster home license. (3-30-01)

03. Waiver. A regular license may be issued to the foster home of a relative who has received a waiver of licensing rules provided: (4-7-11)

a. The waiver is considered on an individual case basis; (3-30-01)

b. The waiver is approved only for non-safety foster care rules; (7-1-09)

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c. All other licensing requirements have been met; (4-7-11)

d. The approval of a waiver of any foster home rules requires the licensing authority to document a description of the reasons for issuing a waiver, the rules being waived, and assurance that the waiver will not compromise the child's safety; and (7-1-09)

e. The approved waiver must be reviewed for continued need and approval at regular intervals not to exceed six (6) months. (7-1-09)

04. Variance. A regular license will be issued to a foster home, children's residential care facility or children's agency approved for a variance of a licensing rule provided: (4-7-11)

a. The variance is considered on an individual case basis; (3-30-01)

b. The variance is approved for a non-safety licensing rules; (3-30-01)

c. The approval of a variance must have no adverse effect on the health, safety, and well-being of any child in care at the foster home or facility; (7-1-09)

d. The approval of a variance is documented by the licensing agency and includes a description of the reasons for issuing a variance and assurances that the variance will not compromise any child's health, safety, and well-being; and (7-1-09)

e. The approved variance must be reviewed for continued need and approval annually. (7-1-09)

05. Provisional License. A provisional license may be issued to a foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety and well-being of any child in care at the home or facility. (3-21-12)

a. A provisional license will be in effect for not more than six (6) months. (4-7-11)

b. Only one (1) provisional license will be issued to a foster home, children's residential care facility, children's agency, children's therapeutic outdoor program, or children's camp in any twelve-month period of time under Section 39-1216, Idaho Code. (3-21-12)

06. Limited License. A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided that: (3-30-01)

a. The child is already in the home and has formed strong emotional ties with the foster parents; and (3-30-01)

b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than would removal to another home. (3-30-01)

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07. Denial of Application. In the event that an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until after one (1) year has elapsed from the date on the denial of application. (4-7-11)

08. Failure to Complete Application Process. (7-1-09)

a. Failure of the applicant to complete the application process within six (6) months of the original date of application will result in a denial of the application. (7-1-09)

b. An applicant whose application has been denied for being incomplete may not reapply until after one (1) year has elapsed from the date on the denial of application. (7-1-09)

IDAPA 16.06.02.103

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license applies only to the foster home, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's agency, children's therapeutic outdoor program, children's camp, or the person and premises designated. Each license is issued in the name of the individual, firm, partnership, association, corporation, or governmental unit identified on the application and only to a specified address of the facility or program stated in the application for the period and services specified. A license issued in the name of a foster parent, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's agency applies only to the services specified in the license. Any change in management or address renders the license null and void, and the foster parent or operator must immediately return the license to the licensing agency as required in Section 100 of these rules. (4-7-11)

02. Nontransferable. A license is nontransferable or assignable from one (1) individual to another, from one (1) business entity or governmental unit to another, or from one (1) location to another. (4-7-11)

03. Change in Ownership, Operator, or Location. When there is a change in ownership, operator, or a change in location occurs, the facility or program must reapply for a license as required in Section 101 of these rules. The new owner or operator must obtain a license before starting operations. (4-7-11)

IDAPA 16.06.02.104

104. MANDATORY VISITATIONS.

In accordance with Section 39-1217, Idaho Code, the Department or other licensing authority must visit, and must be given access to, the premises of each licensed foster home, licensed children's agency, licensed children's therapeutic outdoor program, and licensed children's residential care facility as often as deemed necessary or desirable by the Department to assure conformity with the requirements in this chapter of rules but, in any event, at intervals not to exceed twelve (12) months. (4-11-06)

IDAPA 16.06.02.105

105. REVISIT AND RELICENSE.

Revisit and relicense studies will document how the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency continues to meet the standards for licensing. Consideration must be given to each point of the standards, including a review of the previous study and original application to determine what changes have occurred. An application for renewal of a license must be made by the operator on the form furnished by the Department, and filled out prior to the expiration date of the license currently in force. When such application for renewal has been made in the proper manner and form, the existing license will, unless officially revoked, remain in force until the Department has acted on the application for renewal. (4-7-11)

IDAPA 16.06.02.106

106. COMPLAINTS AGAINST DAYCARE CENTERS, GROUP DAYCARE FACILITIES, FAMILY DAYCARE HOMES, FOSTER HOMES, CHILDREN'S RESIDENTIAL CARE FACILITIES, CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS, CHILDREN'S CAMPS, AND CHILDREN'S AGENCIES.

01. Investigation. The Department will investigate complaints regarding daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, foster homes, children's residential care facilities, children's therapeutic outdoor programs, children's camps, or children's agencies. The investigation may include further contact with the complainant, scheduled or unannounced visits to the children's residential care facility, foster home, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's agency, collateral contacts including interviews with the victim, parents or guardian, children's residential care facility or children's agency administrator, operator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. (4-7-11)

02. Informed of Action. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parents, operator, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. (4-7-11)

IDAPA 16.06.02.107

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT OR OPERATOR.

When circumstances occur over which the foster parent or operator has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency out of conformity with Idaho law or with these rules, the license must be suspended until the nonconformity is remedied. (4-7-11)

IDAPA 16.06.02.108

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.

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A license may be suspended for infractions of these rules. Such suspension may lead to revocation if the foster parent or operator fails to satisfy the Director that the infractions have been corrected sufficiently to assure conformity with the rules. (4-7-11)

IDAPA 16.06.02.109

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

If, upon investigation, it is found that an applicant, foster parent, or operator has failed or refused to comply with any of the provisions of the Basic Daycare License Law, Sections 39-1101 through 39-1120, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-1201 through 39-1224, Idaho Code, or with these rules, or with any provision of the license, the Director may deny, suspend, revoke, or not renew a license. The Department may also deny, suspend, revoke, or deny renewal of a license for any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, child care facility, children's residential care facility, children's agency, children's therapeutic outdoor program, children's camp, or foster home when any of the following in Subsection 109.01 and 109.02 of this rule is determined. (4-7-11)

01. Criminal Conviction or Relevant Record. Anyone providing direct care or working onsite under these rules is denied clearance or refuses to comply with the requirements in IDAPA 16.05.06, "Criminal History and Background Checks." (4-7-11)

02. Other Misconduct. The applicant, foster parent, operator, or the person proposed as chief executive officer: (4-7-11)

- a. Fails to furnish any data, statistics, records or information requested by the Department without good cause or provides false information; (3-30-01)
- b. Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a children's residential care facility or children's agency; (3-30-01)
- c. Has been found guilty of or is under investigation for the commission of any felony; (3-30-01)
- d. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or (3-30-01)
- e. Has knowingly permitted, aided or abetted the commission of any illegal act on the premises of the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency. (4-7-11)

IDAPA 16.06.02.110

110. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS.

The Department may summarily ban admissions, in whole or in part, pending satisfactory correction of all

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deficiencies. Bans will remain in effect until the Department determines that the organization has achieved full compliance with all program requirements, or until a substitute remedy is imposed. (7-1-09)

IDAPA 16.06.02.111

111. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS OR CHILDREN.

The Department may summarily suspend a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, children's camp, or a children's residential care facility license and require the program to transfer residents or children when the Department has determined a resident's or child's health and safety are in immediate jeopardy. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted. (4-7-11)

IDAPA 16.06.02.112

112. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF RESIDENTS OR CHILDREN.

The Department may revoke the license of a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility when the Department determines the operator is not in compliance with these rules. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted. Revocation and transfer of residents or children may occur under the following circumstances: (4-7-11)

01. Endangers Health or Safety. Any condition that endangers the health or safety of any resident or child. (4-7-11)

02. Not in Substantial Compliance. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility is not in substantial compliance with these rules. (4-7-11)

03. No Progress to Meet Plan of Correction. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. (4-7-11)

04. Repeat Violations. Repeat violations of any requirement of these rules or provisions of Title 39, Chapters 11 and 12, Idaho Code. (4-7-11)

05. Misrepresented or Omitted Information. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (4-7-11)

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06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility and its grounds facilities and records. (4-7-11)

07. Violation of Terms of Provisional License. A children's agency, foster home, children's therapeutic outdoor program, children's camp, or children's residential care facility that has violated any of the terms or conditions of a provisional license. (3-21-12)

IDAPA 16.06.02.113

113. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the licensing authority will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. (7-1-09)

IDAPA 16.06.02.114. - 16.06.02.299

114. - 299. (RESERVED).