

65C-22.010 Enforcement.

(1) Definitions.

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

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

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

(d) "Violation" means a finding of noncompliance by the department or local licensing authority of a licensing standard.

1. "Class I Violation" is an incident of noncompliance with a Class I standard as described on CF-FSP Form 5316, July 2012. Child Care Facility Standards Classification Summary, which is incorporated by reference. A copy of the CF-FSP Form 5316 may be obtained from the department's website at www.myflorida.com/childcare or from the following link <http://www.flrules.org/Gateway/reference.asp?No=Ref-03034>. The effective date of a termination of a provider's Gold Seal Quality Care designation is the date of the department's written notification to the provider. Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child.

2. "Class II Violation" is the second or subsequent incident of noncompliance with an individual Class II standard as described on CF-FSP Form 5316. Class II violations are less serious in nature than Class I violations, and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent.

3. "Class III Violation" is the third or subsequent incident of noncompliance with an individual Class III standard as described on CF-FSP Form 5316. Class III violations are less serious in nature than either Class I or Class II violations, and pose a low potential for harm to children.

4. "Technical Support Violations" are the first or second occurrence of noncompliance of an individual Class III standard or the first occurrence of noncompliance of an individual Class II standard.

(2) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions shall be applied progressively for each standard violation. In addition, providers will be offered technical assistance in conjunction with any disciplinary sanction. The department shall take into consideration the actions taken by the facility to correct the violation when determining the appropriate disciplinary sanction.

(b) Each standard violation has an assigned classification based on the nature or severity of the violation(s) as identified within the Child Care Facility Standards Classification Summary, CF-FSP Form 5316.

(c) A violation of a Class II standard that results in death or serious harm to a child shall escalate to a Class I violation.

(d) Failure to submit a completed CF-FSP Form 5017, Application for a License to Operate a Child Care Facility, which is incorporated by reference in paragraph 65C-22.001(1)(a), F.A.C., for renewal of an annual license at least 45 days prior to the expiration date of the current license constitutes a licensing violation. The department shall issue an administrative complaint imposing a fine of \$50.00 for the first occurrence, \$100.00 for the second occurrence, and \$200.00 for each subsequent occurrence within a five year period.

(e) Disciplinary sanctions for licensing violations that occur within a two year period shall be progressively enforced as follows:

1. Class I Violations.

a. For the first and second violation of a Class I standard, the department shall, upon applying the factors in Section 402.310(1), F.S., issue an administrative complaint imposing a fine not less than \$100 nor more than \$500 per day for each violation, and may impose other disciplinary sanctions in addition to the fine.

b. For the third and subsequent violation of a Class I standard, the department shall issue an administrative complaint to suspend, deny or revoke the license. The department, upon applying the factors in Section 402.310(1), F.S., may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.

2. Class II Violations.

a. For the first violation of a Class II standard, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard occur. The violation will be classified as "Technical Support."

b. For the second violation of the same Class II standard, the department shall issue an administrative complaint imposing a fine of \$50 for each violation. This violation, and subsequent violations, of the same standard within a two year period will be classified as "Class II."

c. For the third violation of the same Class II standard, the department shall issue an administrative complaint imposing a fine of \$60 per day for each violation.

d. For the fourth violation of the same Class II standard, the department shall issue an administrative complaint placing the provider's license on probation status for a period not to exceed six months, and the department shall also issue an administrative complaint imposing an additional fine of \$75 per day for each violation.

e. For the fifth and subsequent violation of the same Class II standard, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and the department shall also issue an administrative complaint imposing an additional fine of \$100 per day for each violation.

3. Class III Violations.

a. For the first violation of a Class III standard, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second violation of the same Class III standard, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third violation of the same Class III standard, the department shall issue an administrative complaint imposing a fine of \$25 for each violation. This violation, and subsequent violations of the same standard within a two year period will be classified as "Class III."

d. For the fourth violation of the same Class III standard, the department shall issue an administrative complaint imposing a fine of \$30 per day for each violation.

e. For the fifth violation of the same Class III standard, the department shall issue an administrative complaint placing the provider's license on probation status for a period not to exceed six months, and the department shall also issue an administrative complaint imposing a fine of \$40 per day for each violation.

f. For the sixth and subsequent violation of the same Class III standard, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and the department shall also issue an administrative complaint imposing a fine of \$50 per day for each violation.

4. Children's Health/Immunization Records Disciplinary Sanctions.

a. For the first violation of a Class III Children's Health and/or Immunization standard, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second violation of the same Class III Children's Health and/or Immunization standard, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third violation of the same Class III Children's Health and/or Immunization standard, the department shall issue an administrative complaint imposing a fine in the amount of \$25 for each violation. This Class III violation, and subsequent Class III violations of the same standard within a two year period will be classified as "Class III."

d. For the fourth violation of the same Class III Children's Health and/or Immunization standard, the department shall issue an administrative complaint imposing a fine in the amount of \$30 for each violation.

e. For the fifth violation of the same Class III Children's Health and/or Immunization standard, the department shall issue an administrative complaint imposing a fine in the amount of \$40 per day for each violation.

f. For the sixth and subsequent violation of the same Class III Children's Health and/or Immunization standard, the department shall issue an administrative complaint placing the provider's license or registration on probation status for a period not to exceed six months, and the department shall also issue an administrative complaint imposing an additional fine of \$50 per day for each violation.