



Children Transmittal Letter 67

TO: Children Services Stakeholders

FROM: Kara B. Wente, Director

DATE: Month XX, 2025

SUBJECT: Foster Care Licensing Suspension changes due to Amended Substitute House Bill 96 of the 136th General Assembly.

Background

The Department of Children and Youth (DCY) is changing two Ohio Administrative Code (OAC) rules to address the suspension of an agency or foster caregiver certification due to the enactment of Amended Substitute House Bill 96 (HB96) that allows DCY to immediately suspend a license in certain circumstances.

These rules will be effective on Month DD, 2025.

Purpose

The DCY rules in OAC were renumbered to 5180 on January 2, 2025, as a result of House Bill 33 (HB33) of the 135th General Assembly. For organizational reasons, as DCY opens rules, the rules are being rescinded and adopted under a new number. This letter identifies which rules are being rescinded and renumbered along with any additional changes.

OAC 5180:2-5-07 → OAC 5180:4-1-07, “Denial, revocation or suspension of an agency's certificate or certification to perform specific functions; administrative closures”, provides guidance on the process and requirements for suspension, revocation or denial of an agency. Language was added to address the suspension of the agency.

OAC 5180:2-5-28 → OAC 5180:4-1-28, “Agency cause for denial, revocation, or suspension of foster home certification”, provides guidance on the process and requirements for revocation, denial, or suspension of a foster caregiver. Language was added to address the suspension of a caregiver's certificate.



Rules/Forms

The chart indicates the impacted OAC rules, transmittal letters, and/or required forms.

OAC Rules	Previous Transmittal Letter	DCY Forms
5180:2-5-07	FCASMTL 568	
5180:2-5-28	FCASMTL 568	
5180:4-1-07		
5180:4-1-28		

*****DRAFT - NOT FOR FILING*****

5180:4-1-07 Denial, revocation or suspension of an agency's certificate or certification to perform specific functions; administrative closures.

(A) Under what conditions may an application for an agency certificate or certification to perform specific functions be denied or revoked?

An application may be denied or an existing certificate revoked for the following reasons:

- (1) Failure to comply with applicable requirements of Chapter 5180:2-5, 5180:4-1 or other relevant chapters of the Administrative Code.
- (2) Failure to comply with an approved corrective action plan for previously cited noncompliance.
- (3) Providing misleading or false statements or false reports to the department.
- (4) Refusing to admit onto its premises any person performing duties described in Chapter 5180:2-5 or 5180:4-1 of the Administrative Code or other applicable chapters of the Administrative Code relevant to the intended or certified functions of the agency, state or federal law or regulations or municipal ordinance.

(B) What due process must occur before the Ohio department of children and youth (DCY) denies or revokes a certification?

All actions of denial or revocation must occur by prior adjudicatory hearing in accordance with Chapter 119. of the Revised Code.

(C) Can an agency's failure related to child safety lead to revocation or denial of certification?

Any act or omission resulting in death, injury, illness, abuse, neglect, or exploitation of a child may be grounds for denial or revocation. This includes failure to inform employees of their mandatory reporting duties under section 2151.421 of the Revised Code to report any knowledge or suspicion of any physical or mental abuse, sexual abuse or exploitation or neglect or threatened abuse or neglect of a child by any person, including another child, to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect has occurred or is occurring.

(D) Who does DCY notify when it proceeds with denial or revocation of an agency's certification?

- (1) Title IV-E courts.
- (2) Public children services agencies (PCSAs).
- (3) Private child placing agencies (PCPAs).
- (4) Any other persons or entities deemed necessary.

(E) What happens if a denial or revocation order is not upheld or is overturned on appeal?

DCY notifies all previously informed entities of the decision to overturn or not uphold the denial or revocation.

(F) What are the consequences for principals of an agency when its certificate is denied or revoked?

*****DRAFT - NOT FOR FILING*****

The agency and its principals become ineligible for any DCY certification for five years from the effective date of the denial or revocation or the exhaustion of all appeals, whichever is later.

(G) What constitutes a "principal" of an agency?

A principal includes the agency's administrator(s) or designee, director(s), owners, partners, or governing body members.

(H) Under what circumstances may DCY administratively close an agency's application or certificate?

DCY may close an application or certificate for the following reasons:

- (1) Failure to provide an address change.
- (2) Loss of contact after 30 days.
- (3) Ineligibility under the five-year ban.
- (4) Failure or refusal to submit policy statements, application materials, plans or reports requested by DCY within the necessary time frames.

(I) Is administrative closure subject to a hearing under Chapter 119. of the Revised Code?

Administrative closures are not subject to administrative hearing rights.

(J) When can DCY suspend an agency's certificate?

DCY may suspend a certificate if DCY determines that any of the following have occurred:

- (1) A child dies or suffers a serious injury while placed or residing with the agency, as defined in section 5103.02 of the Revised Code.
- (2) A PCSA receives a report pursuant to section 2151.421 of the Revised Code, and the person alleged to have inflicted abuse or neglect on the child who is the subject of the report is any of the following:
 - (a) A principal of the agency.
 - (b) An employee or volunteer of the agency who has not immediately been placed on administrative leave or released from employment.
- (3) One of the following is charged by an indictment, information, or complaint with an offense relating to the death, injury, abuse, or neglect of a child:
 - (a) A principal of the agency.
 - (b) An employee or volunteer of the agency who has not immediately been placed on administrative leave or released from employment.
- (4) DCY, the recommending agency, a PCSA, or a county department of job and family services determines that a principal, employee, or volunteer of the agency, created a serious risk to the health or safety of a child placed therein that resulted in or could have resulted in a child's death or injury.
- (5) DCY determines that the owner of the agency does not meet the requirements of section 2151.86,

*****DRAFT - NOT FOR FILING*****

5103.0310, or 5103.053 of the Revised Code.

(K) What happens if an agency's certificate is suspended?

- (1) An agency is not to have any children placed within the agency while a suspension remains in effect. Upon the issuance of the order of suspension, DCY will place a hold on the certificate or indicate that the certificate is suspended in the Ohio comprehensive child welfare information system (Ohio CCWIS).
- (2) Upon receipt of a written suspension order from DCY, delivered either by signature required service or in person, the agency is to immediately stop providing care to all children. The custodian of the children placed at the agency is to ensure a suitable placement for the children is made. Refusal of delivery by personal service or by mail is not failure of delivery and service shall be deemed to be complete.

(L) Can the agency request a review of the decision to suspend the license?

The agency may request an adjudicatory hearing before DCY pursuant to sections 119.06 to 119.12 of the Revised Code.

(M) How long will the certificate be suspended?

The suspension will remain in effect until any of the following occurs:

- (1) The PCSA completes its investigation pursuant to section 2151.421 of the Revised Code and determines that all the allegations are unsubstantiated.
- (2) All criminal charges are disposed of through dismissal or a finding of not guilty.
- (3) Pursuant to Chapter 119. of the Revised Code, DCY issues a final order terminating the suspension.

*****DRAFT - NOT FOR FILING*****

5180:4-1-28 Agency Cause for Denial, Revocation, or Suspension of Foster Home Certification.

(A) What is a recommending agency to do upon receiving an allegation of a foster home rule violation?

The agency is to:

- (1) Begin investigating within three calendar days of all allegations of rule noncompliance of Chapter 5180:2-7, 5180:4-3, or any other relevant chapter of the Administrative Code. At a minimum, an investigation begins with the implementation of paragraph (C) of this rule or documenting the contact of the agency by any third party or law enforcement agency investigating the allegations to determine if the recommending agency can proceed with the rule noncompliance investigation.
- (2) Complete the investigation no later than within thirty calendar days, unless there is a conflicting law enforcement or third-party investigation.
- (3) Document and maintain the following in the foster caregiver record:
 - (a) The investigation details.
 - (b) If noncompliance is found implement a corrective action plan as required by the agency or the recommendation to deny continuous certification or revoke the certification of the foster home.
 - (c) A written explanation if noncompliance is not found.

(B) What are valid causes for denying initial or continuous certification or revoking a foster home certificate either upon the recommendation of a recommending agency or through unilateral action by the Ohio department of children and youth (DCY)?

The following may be considered a valid cause for denial or revocation of a foster caregiver or applicant:

- (1) Failure or refusal to comply with applicable rules.
- (2) Knowingly providing false or misleading information to the agency.
- (3) Falsifying or failing to submit required reports.
- (4) Withholding or failing to provide access to required records.
- (5) Denying entry into the residence to any person performing duties required by Chapter 5180:2-5, 5180:2-7, 5180:2-36, 5180:4-1, 5180:4-3 or 5180:3-3 of the Administrative Code or any laws of the state or any subdivision therein.
- (6) Failing or refusing to comply with agency instructions regarding care of a foster child an agency has placed within the home.
- (7) Interfering or acting in conflict with an agency plan for a foster child's care.
- (8) A household resident (not a foster child) being guilty of a crime against a child.
- (9) A foster caregiver or applicant, any adult resident of a foster home, or any minor resident of a foster home at least twelve years of age, but less than eighteen years of age other than a foster child who is placed there, residing with the foster caregiver has been convicted of, pleaded guilty to, or been adjudicated delinquent for commission of any offense listed in appendix A to rule 5180:2-5-09.1 or 5180:4-1-09.1 of

*****DRAFT - NOT FOR FILING*****

the Administrative Code.

(10) Refusing to obtain a criminal records check.

(11) Agency's documented determination that the individual should not care for a foster child.

(12) Any act of omission or commission by a foster caregiver, applicant or other member of the household which results in the death, injury, illness, abuse, neglect or exploitation of a child.

(13) Any other applicable reason pursuant to section 5103.0319 or 5103.0326 of the Revised Code.

(C) What are the steps the agency takes when one or more of the above conditions are present?

The agency is to:

(1) Review the foster home certificate or application and, if applicable, recommend:

(a) Revocation of the certificate.

(b) Denial of the initial or continuous certification application.

(2) Review the appropriateness of the placement in the foster home of any child of whom the agency has temporary, legal, or permanent custody. After review, the agency may, consistent with any court order, remove the child from the foster home in which the child is residing and place the child in another certified foster home or other appropriate placement.

(3) Assess the need for training because of the conviction, plea of guilty, or adjudication described in paragraph (B) of this rule and provide any necessary training unless the agency action is to recommend revocation of the certificate.

(D) What if a caregiver fails to comply with specific notification rules in paragraph (L) of either 5180:2-7-02 or 5180:4-3-02 or paragraph (G) of either 5180:2-7-14 or 5180:4-3-14 of the Administrative Code?

The agency is to immediately notify:

(1) The child's custodial agency if applicable.

(2) DCY.

(E) What action must be taken if any of the conditions listed in paragraph (B) of this rule presents or creates a threat to the life, health, or safety of a foster child?

(1) The agency is to:

(a) Immediately remove the foster child from the home.

(b) Notify the custody-holding agency or individual within one hour.

(2) No further justification is needed beyond the agency's determination of threat to a foster child's safety.

(F) When can DCY suspend a foster care certificate?

DCY may suspend a certificate if DCY determines that any of the following have occurred:

*****DRAFT - NOT FOR FILING*****

(1) A child dies or suffers a serious injury while placed or residing with the caregiver, as defined in section 5103.02 of the Revised Code.

(2) A PCSA receives a report pursuant to section 2151.421 of the Revised Code, and the person alleged to have inflicted abuse or neglect on the child who is the subject of the report is a foster caregiver or a member of the caregiver's household.

(3) DCY, the recommending agency, a PCSA, or a county department of job and family services determines that a foster caregiver or a member of the caregiver's household created a serious risk to the health or safety of a child placed therein that resulted in or could have resulted in a child's death or injury.

(4) A foster caregiver or a member of the caregiver's household is charged by an indictment, information, or complaint with an offense relating to the death, injury, abuse, or neglect of a child.

(5) DCY determines that the foster caregiver or a member of the caregiver's household does not meet the requirements of section 2151.86 or 5103.18 of the Revised Code.

(G) What happens if a foster caregiver's certificate is suspended?

(1) A caregiver is not to have children placed in the home while a suspension remains in effect. Upon the issuance of the order of suspension, DCY will place a hold on the certificate or indicate that the certificate is suspended in the Ohio comprehensive child welfare information system (Ohio CCWIS).

(2) Upon receipt of a written suspension order from DCY, delivered either by signature required service or in person, the caregiver is to immediately stop providing care to all children and a suitable placement for the children is to be made. Refusal of delivery by personal service or by mail is not failure of delivery and service shall be deemed to be complete.

(H) Can the foster caregiver request a review of the decision to suspend the license?

The caregiver may request an adjudicatory hearing before DCY pursuant to sections 119.06 to 119.12 of the Revised Code.

(I) How long will the certificate be suspended?

The suspension will remain in effect until any of the following occurs:

(1) The PCSA completes its investigation pursuant to section 2151.421 of the Revised Code and determines that all the allegations are unsubstantiated.

(2) All criminal charges are disposed of through dismissal or a finding of not guilty.

(3) Pursuant to Chapter 119. of the Revised Code, DCY issues a final order terminating the suspension.

*****DRAFT - NOT FOR FILING*****

5180:2-5-07 Denial or revocation of an agency's certificate or certification to perform specific functions; administrative closures.

- (A) An application for an agency certificate or for any of the functions an agency intends to perform may be denied and an existing certificate or certification to perform specific functions may be revoked for any of the following reasons:
- (1) An agency has failed to comply with any applicable requirement of Chapter 5101:2-5 of the Administrative Code or any requirement of any other applicable chapter of the Administrative Code relevant to the intended or certified functions of the agency.
 - (2) An agency has failed to comply with an approved corrective action plan for previously cited areas of noncompliance.
 - (3) An agency is found to have provided to the department any of the following:
 - (a) Misleading or false statements.
 - (b) Misleading or false reports.
 - (4) An agency has refused to admit onto its premises any person performing duties described in Chapter 5101:2-5 of the Administrative Code or other applicable chapters of the Administrative Code relevant to the intended or certified functions of the agency, state or federal law or regulations or municipal ordinance.
- (B) All actions of the Ohio department of children and youth (DCY) with respect to denial or revocation is to be by prior adjudicatory hearing pursuant to and subject to the requirements of Chapter 119. of the Revised Code.
- (C) Any act of omission or commission by an agency which results in the death, injury, illness, abuse, neglect or exploitation of a child in the care of the agency may be grounds for the revocation or denial of the agency's certification to perform any or all certified functions. This is to include any situation in which an agency has failed to inform any agency employee of the employee's obligation, pursuant to section 2151.421 of the Revised Code, to report any knowledge or suspicion of any physical or mental abuse, sexual abuse or exploitation or neglect or threatened abuse or neglect of a child by any person, including another child, to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect has occurred or is occurring.
- (D) At the time DCY proceeds with an agency denial or revocation, DCY is to notify all of the following of the proposed adjudication order:
- (1) Title IV-E courts.
 - (2) Public children services agencies (PCSAs).
 - (3) Private child placing agencies (PCPAs).
 - (4) Any other person or entity DCY deems necessary.
- (E) If an order of denial or revocation is not upheld after any administrative hearing held pursuant to Chapter 119. of the Revised Code or if an order of denial or revocation is overturned on appeal to a court of competent jurisdiction, DCY is to notify the decision to all entities that were notified pursuant to paragraph (D) of this

*****DRAFT - NOT FOR FILING*****

rule.

- (F) When DCY enters an adjudication order to deny or revoke an agency's certificate pursuant to Chapter 119. of the Revised Code, the agency and those parties identified as the principals of the agency is not to be eligible for any DCY certification for five years from the effective date of the denial or revocation or the exhaustion of all appeals, whichever is later. As used in this rule, "principal" means the agency's administrator(s) or director(s) and the agency's owners, partners, or members of the agency's governing body. In any denial or revocation action, DCY is to identify the principals of the agency against whom the denial or revocation action is taken.
- (G) DCY may administratively close an agency application or certificate for the following:
 - (1) Failure to provide an address change.
 - (2) Loss of contact after thirty calendar days.
 - (3) The applicant(s) are not eligible pursuant to paragraph (F) of this rule.
 - (4) An applicant refuses or fails to submit policy statements, application materials, plans or reports requested by DCY within the necessary time frames.
- (H) When DCY conducts an administrative closure as described in paragraph (G) of this rule, such action is not subject to administrative hearing rights under Chapter 119. of the Revised Code.

*****DRAFT - NOT FOR FILING*****

5180:2-5-28 Agency cause for denial of initial certification, denial of continuous certification or revocation of a foster home certificate.

- (A) If the recommending agency has knowledge of rule noncompliance or receives an allegation of a rule violation of Chapter 5101:2-7 of the Administrative Code for a currently certified foster home, the agency is to comply with all of the following:
- (1) Begin an investigation of all allegations of rule noncompliance of Chapter 5101:2-7 of the Administrative Code within three calendar days of receipt of an allegation of a rule violation. At a minimum, an investigation begins with the implementation of paragraph (C) of this rule or documenting the contact of the agency by any third party or law enforcement agency investigating the allegations to determine if the recommending agency can proceed with the rule noncompliance investigation.
 - (2) Complete the investigation within thirty calendar days of beginning the investigation unless the investigation of rules violation conflicts with any other third party or law enforcement investigation.
 - (3) Document and maintain the following results in the foster caregiver record:
 - (a) Investigations conducted pursuant to this paragraph.
 - (b) If noncompliance is found, the development and implementation of corrective action plans as required by the agency or the recommendation to deny continuous certification or revoke the certification of the foster home.
 - (c) If noncompliance is not found, a statement documenting and explaining the reasoning that non-compliance was not found.
- (B) Any one or any combination of the following circumstances may be considered valid cause for denial of initial foster home certification, denial of continuous certification, or revocation of a foster home certificate either upon the recommendation of a recommending agency or through unilateral action by the Ohio department of children and youth (DCY):
- (1) A foster caregiver or applicant fails or refuses to comply with any requirement of Chapter 5101:2-5 or 5101:2-7 of the Administrative Code.
 - (2) A foster caregiver or applicant knowingly furnishes false or misleading statements or reports to the agency.
 - (3) A foster caregiver or applicant knowingly falsifies, refuses or fails to submit any report required by Chapter 5101:2-7 of the Administrative Code.
 - (4) A foster caregiver or applicant refuses or fails to make available any record required by or necessary to the administration of Chapter 5101:2-7 of the Administrative Code.
 - (5) A foster caregiver or applicant refuses to admit into the residence any person performing duties required by Chapter 5101:2-5, 5101:2-7 or 5101:2-36 of the Administrative Code or any laws of the state or any subdivision therein.
 - (6) A foster caregiver or applicant fails or refuses to comply with agency instructions regarding care of a foster child an agency has placed within the home.
 - (7) A foster caregiver or applicant interferes or acts in conflict with an agency plan for a foster child's care.

*****DRAFT - NOT FOR FILING*****

- (8) Any resident of a foster caregiver or applicant's home, other than the foster children who are placed there, is found guilty of any crime perpetrated against a child.
 - (9) A foster caregiver or applicant, any adult resident of a foster home, or any minor resident of a foster home at least twelve years of age, but less than eighteen years of age other than a foster child who is placed there, residing with the foster caregiver has been convicted of, pleaded guilty to, or been adjudicated delinquent for commission of any offense listed in appendix A to rule 5101:2-5-09.1 of the Administrative Code.
 - (10) A foster caregiver, applicant or any other resident of a foster home who is a person subject to a criminal records check refuses to obtain a criminal records check.
 - (11) A recommending agency can document, in their assessment, that a foster caregiver, applicant or a foster home should not care for a foster child.
 - (12) Any act of omission or commission by a foster caregiver, applicant or other member of the household which results in the death, injury, illness, abuse, neglect or exploitation of a child.
 - (13) Any applicable reason pursuant to section 5103.0319 or 5103.0326 of the Revised Code.
- (C) When the recommending agency has knowledge that one or more of the circumstances listed in paragraph (B) of this rule apply to a resident of a foster caregiver's or prospective foster caregiver's home, the agency is to do all of the following:
- (1) Review the foster home certificate or the application, if applicable and if appropriate, recommend DCY:
 - (a) Revoke the certificate.
 - (b) Recommend denial of the initial application.
 - (c) Recommend denial of the application for continuous certification.
 - (2) Review the appropriateness of the placement in the foster home of any child of whom the agency has temporary, legal, or permanent custody. After review, the agency may, consistent with any court order, remove the child from the foster home in which the child is residing and place the child in another certified foster home or other appropriate placement.
 - (3) If the agency does not have temporary, legal, or permanent custody of a foster child residing in the foster home, the recommending agency is to notify the entity that has custody of the child that it has received a notice subject to paragraph (L) of rule 5101:2-7-02 or paragraph (G) of rule 5101:2-7-14 of the Administrative Code.
 - (4) Assess the foster caregiver's need for training because of the conviction, plea of guilty, or adjudication described in paragraph (B) of this rule and provide any necessary training unless the agency action is to recommend revocation of the certificate.
- (D) If a recommending agency learns that a foster caregiver has failed to comply with the provisions of paragraph (L) of rule 5101:2-7-02 or paragraph (G) of rule 5101:2-7-14 of the Administrative Code, it is to immediately notify the entity that has custody if applicable, and DCY.
- (E) If an agency determines that any of the conditions listed in paragraph (B) of this rule presents or creates a threat to the life, health, or safety of a foster child, it is to immediately remove the foster child from the

*****DRAFT - NOT FOR FILING*****

foster home and notify the custody-holding agency or individual within one hour. An agency determination of threat to a foster child's safety is sufficient basis for any such action, and does not require any additional justification.