

922 KAR 2:090. Child-care center licensure.

RELATES TO: KRS Chapter 13B, 17.165, 17.500–17.580, Chapter 157, 199.011(1), (4), 199.892, 199.894(1), (3), 199.895, 199.896, 199.898, 600.020(1), 620.030(4), 45 C.F.R. 98.2, 42 U.S.C. 601-619

STATUTORY AUTHORITY: KRS 194A.050(1), 199.896(2), (6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.896(2) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to establish license fees and standards for a child-care center. KRS 199.896(6) requires the cabinet to establish an informal dispute resolution process. This administrative regulation establishes licensure standards for a child-care center and describes the informal dispute resolution process.

Section 1. Definitions. (1) "Address check" means a cabinet search of the Sex Offender Registry to determine if a person's residence is a known address of a registered sex offender.

(2) "Cabinet" is defined by KRS 199.894(1).

(3) "Child" is defined by KRS 199.011(4).

(4) "Child-care center" is defined by KRS 199.894(3).

(5) "Finding of fraud" means a suspected intentional program violation referred in accordance with 922 KAR 2:020, Section 4(4)(a)1, that is accepted for investigation and substantiated by the cabinet's Office of Inspector General.

(6) "Licensee" means the owner and operator of a child-care center to include:

(a) Sole proprietor;

(b) Corporation;

(c) Limited liability company;

(d) Partnership;

(e) Association; or

(f) Organization, such as:

1. Board of education,

2. Private school;

3. Faith-based organization;

4. Government agency; or

5. Institution.

(7) "Nontraditional hours" means the hours of:

(a) 7 p.m. through 5 a.m. Monday through Friday; or

(b) 7 p.m. on Friday until 5 a.m. on Monday.

(8) "Parent" is defined by 45 C.F.R. 98.2.

(9) "Premises" means the building and contiguous property in which child care is licensed.

(10) "Secretary" is defined by KRS 199.011(1).

(11) "Sex Offender Registry" means the registration system for adults who have committed sex crimes or crimes against minors established in accordance with KRS 17.500 through 17.580.

Section 2. Child-care Centers. The following child-care centers shall meet the requirements of this administrative regulation:

(1) A Type I child-care center. This child-care center shall be licensed to regularly provide child care services for:

(a) Four (4) or more children in a nonresidential setting; or

(b) Thirteen (13) or more children in a designated space separate from the primary residence of a licensee; and

(2) A Type II child-care center. This child-care center shall be primary residence of the licensee in which child care is regularly provided for seven (7), but not more than twelve (12), children including children related to the licensee.

Section 3. Exempt Child Care Settings. The following child-care settings shall be exempt from licensure requirements of this administrative regulation, 922 KAR 2:110, and 922 KAR 2:120:

(1) Summer camps certified by the cabinet as youth camps which serve school-age children;

(2) Kindergarten through grade 12 in private schools while school is in session;

(3) All programs and preschools regulated by the Kentucky Department of Education governed by KRS Chapter 157;

(4) Summer programs operated by a religious organization which a child attends no longer than two (2) weeks;

(5) Child care provided while parents are on the premises, other than the employment and educational site of parents;

(6) Child care programs operated by the armed services located on an armed forces base;

(7) Child care provided by educational programs that include parental involvement with the care of the child and the development of parenting skills;

(8) Facilities operated by a religious organization while religious services are being conducted; and

(9) A program providing instructional and educational programs:

(a) That operates for a maximum of twenty (20) hours per week; and

(b) Which a child attends for no more than ten (10) hours per week.

Section 4. Application. (1) An applicant for a license shall submit to the cabinet a completed OIG-DRCC-01, Child-Care Center License Application.

(2) Approval of an applicant for initial licensure shall result in the issuance of a preliminary license for a probationary period not to exceed six (6) months.

(3) The issuance of a preliminary license, or the issuance or reapproval of a regular license, shall be governed under the provisions of this section and Sections 5 through 7 of this administrative regulation.

(4) If the applicant for licensure is a:

(a) Corporation or a limited liability company, the application shall include a current certificate of existence or authorization from the Secretary of State; or

(b) Partnership, the application shall include:

1. A written statement from each partner assuring that the partnership is current and viable; and

2. Proof that each individual is twenty-one (21) years or older by photo identification or birth certificate.

(5) If the status of a corporation, partnership, or ownership of the child-care center changes, the new entity shall submit a completed OIG-DRCC-01.

(6) If ownership of a child-care center changes and the cabinet approves preliminary licensure upon inspection of the child-care center under the new ownership, the effective date on the preliminary license shall be the date of the approved inspection under the new ownership.

(7) The cabinet shall return the OIG-DRCC-01 and accompanying fee to an applicant if the applicant:

(a) Has an ownership interest in a facility that is licensed or regulated by the cabinet, and that is subject to a finding of fraud or other investigation by:

1. The cabinet's Office of Inspector General; or

2. An agency with investigative authority; and

(b) Is requesting a:

1. Change in ownership; or
2. License for a new facility.

(8) An applicant or an applicant's lead representative shall submit to background checks in accordance with Section 6(5) of this administrative regulation to confirm compliance with Section 11(7)(j) of this administrative regulation even if the applicant for licensure is not described in Section 6(4) of this administrative regulation.

(9) A child may include a person eighteen (18) years of age if the person has a special need for which child care is required.

Section 5. Evacuation Plan. (1) A licensed child-care center shall have a written evacuation plan in the event of a fire, natural disaster, or other threatening situation that may pose a health or safety hazard for a child in care in accordance with KRS 199.895.

(2) The cabinet shall post an online template of an evacuation plan that:

- (a) Fulfills requirements of KRS 199.895;
- (b) Is optional for a child-care center's use; and
- (c) Is available to a licensed child-care center without charge.

Section 6. License Issuance. (1) The cabinet shall monitor a child-care center that operates under a preliminary license issued pursuant to Section 4(2) of this administrative regulation.

(2) Upon completion of the probationary period required in Section 4(2) of this administrative regulation, the cabinet shall:

- (a) Approve regular licensure for a child-care center operating under a preliminary license; or
- (b) If a condition specified in Section 11 of this administrative regulation exists, deny regular licensure.

(3) A preliminary or regular license shall not be issued unless each background check required by KRS 199.896(19) has been completed on behalf of an applicant for licensure.

(4) Background checks shall apply to:

- (a) A director;
- (b) An employee or volunteer who is present during the time a child is receiving care;
- (c) Any person with supervisory or disciplinary control over a child in care; or
- (d) Any person having unsupervised contact with a child in care.

(5) An individual described in subsection (4) of this section shall:

- (a) Submit to background checks described in paragraph (b) of this subsection;
- (b) May be employed or work with a child on a probationary basis for up to ninety (90) calendar days, pending completion of a:
 1. Child abuse or neglect check using the central registry in accordance with 922 KAR 1:470;
 2. Criminal records check required by KRS 199.896(19);
 3. Criminal records check for any previous state of residence if the person resided outside the state of Kentucky in the last five (5) years; and
 4. An address check of the Sex Offender Registry; and

(c) Not be left alone in the presence of a child until copies of the background checks in accordance with paragraph (b) of this subsection have been received by the licensee.

(6) Upon completion of background checks described in subsection (4)(b) of this section, a licensee shall discharge immediately:

- (a) An individual whose name is listed on the central registry established by 922 KAR 1:470;

(b) An individual who has been convicted of, or has entered an Alford plea or a plea of guilty to, a crime in accordance with KRS 17.165;

(c) An individual who is confirmed by an address check of the Sex Offender Registry and supporting documentation as a registered sex offender;

(d) An individual who has been convicted of, or entered an Alford plea or plea of guilty to, a drug-related felony, and five (5) years has not elapsed since the person was fully discharged from imprisonment, probation, or parole;

(e) A director who has been convicted of, or entered an Alford plea or a plea of guilty to, a felony offense involving fraud, embezzlement, theft, or forgery; and

(f) An individual who has been convicted of, or has entered an Alford plea or a plea of guilty to, an offense under a criminal statute of the United States or of another state similar to an offense specified in this subsection.

(7) An individual who has been convicted of, or entered an Alford plea or a plea of guilty to, a nonviolent felony or misdemeanor not specified in this section shall be handled on a case-by-case basis by the licensee with consideration given to the:

(a) Nature of the offense;

(b) Length of time that has elapsed since the event; and

(c) Individual's life experiences after conviction, Alford plea, or guilty plea.

(8) If an applicant for licensure has had a previous ownership interest in a child-care provider which has had a prior certification, license, registration, or permit to operate denied, suspended, revoked, or voluntarily relinquished as a result of an investigation or pending adverse action, the cabinet shall grant the applicant a license if:

(a) A seven (7) year period has expired from the:

1. Date of the prior denial, suspension, or revocation;

2. Date the certification, license, registration, or permit was voluntarily relinquished as a result of an investigation or pending adverse action;

3. Last day of legal remedies being exhausted; or

4. Administrative hearing decision; and

(b) The applicant has:

1. Demonstrated compliance with the provisions of this administrative regulation, 922 KAR 2:110, 922 KAR 2:120, and KRS 199.896;

2. Completed, since the time of the prior denial, suspension, revocation, or relinquishment, sixty (60) hours of training in child development and child care practice, approved by the cabinet or its designee; and

3. Not had an application, certification, license, registration, or permit denied, revoked, suspended, or voluntarily relinquished as a result of an investigation or pending adverse action:

a. For one (1) of the reasons set forth in:

(i) KRS 199.896(19);

(ii) Subsection (6) of this section; or

(iii) Section 11(2) or 11(7)(j) of this administrative regulation; or

b. Due to a disqualification from:

(i) The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

(ii) Another governmental assistance program for fraud or abuse of that program.

(9) If a license is granted after the seven (7) year period specified in subsection (8)(a) of this section, the licensee shall serve a two (2) year probationary period during which the child-care center shall be inspected on at least a quarterly basis.

(10) A preliminary or regular license shall specify:

(a) A particular premises;

(b) A designated licensee;

(c) Age category of the children in care;

(d) The maximum number of children allowed under center supervision at one (1) time, including a child related to the licensee or an employee, based upon:

1. Available space as determined by the State Fire Marshal's Office in conjunction with the cabinet;
2. Adequacy of program;
3. Equipment; and
4. Staff;

(e) If provided, nontraditional hours;

(f) If provided, transportation; and

(g) A list of services to be provided by the child-care center.

(11) To qualify for a preliminary license, or maintain a regular license, a child-care center shall:

(a) Provide written documentation from the local authority showing compliance with local zoning requirements;

(b) Be approved by the Office of the State Fire Marshal or designee;

(c) Have an approved water and sewage system in accordance with local, county, and state laws;

(d) Provide written proof of liability insurance coverage of at least \$100,000 per occurrence;

(e) Comply with provisions of this administrative regulation, 922 KAR 2:110, and 922 KAR 2:120;

(f) Cooperate with the cabinet, the cabinet's designee, or another agency with regulatory authority during:

1. An investigation of an alleged complaint, including an allegation of child abuse or neglect pursuant to KRS 620.030(4); and
2. Unannounced inspections; and

(g) Have a director who meets the requirements listed in 922 KAR 2:110.

(12) A child-care center shall allow the cabinet or its designee, another agency with regulatory authority, and a parent of an enrolled child unannounced access to the child-care center during the hours of operation.

(13) Denial of access, including any effort to delay, interfere with, or obstruct an effort by a representative of the cabinet or another agency with regulatory authority, to enter the child-care center or deny access to records relevant to the inspection shall result in the cabinet pursuing adverse action in accordance with Section 10, 11, or 12 of this administrative regulation.

(14) A regular license shall be issued and reapproved if the center has met the requirements contained in this administrative regulation, 922 KAR 2:110, 922 KAR 2:120, and KRS 199.896(3), (13), (15), (16), (18), and (19).

(15) A preliminary or regular license shall not be sold or transferred.

(16) Changes to a child-care center as listed in 922 KAR 2:110, Section 6(4) shall be:

(a) In writing to the cabinet or its designee; and

(b) Signed by each owner listed on the preliminary or regular license.

(17) The cabinet or its designee shall not charge a fee for acting upon reported changes.

(18) The preliminary or regular license shall be posted in a conspicuous place in the child-care center.

(19) A child-care center shall not begin operation without a preliminary license to operate from the cabinet.

(20) A child-care center operating without a preliminary or regular license shall be subject to legal action.

(21) The voluntary relinquishment of a preliminary or regular license shall not preclude the cabinet's pursuit of adverse action.

Section 7. Fees. (1) A nonrefundable licensing fee of fifty (50) dollars shall be charged according to KRS 199.896(3).

(2) Licensing fees shall be:

(a) Payable to the Kentucky State Treasurer;

(b) Attached to the licensure application; and

(c) Paid by:

1. Cashier's check;
2. Certified check; or
3. Money order.

Section 8. Annual Reapproval. (1) A licensee seeking reapproval of a regular license shall:

- (a) Submit, one (1) month prior to license expiration, an OIG-DRCC-01; and
- (b) Meet the requirements specified in Sections 4 through 7 of this administrative regulation.

(2) An application for renewal shall be denied in accordance with Section 11 of this administrative regulation.

Section 9. Statement of Deficiency and Corrective Action Plans. (1) If a center is found not to be in regulatory compliance, the cabinet or its designee shall complete a written statement of deficiency in accordance with KRS 199.896(5).

(2) Except for a violation posing an immediate threat as handled in accordance with KRS 199.896(5)(c), a child-care center shall submit a written corrective action plan to the cabinet or its designee within ten (10) calendar days of receipt of the statement of deficiency to eliminate or correct the regulatory violation.

(3) A corrective action plan shall include:

- (a) Specific action undertaken to correct a violation;
- (b) The date action was or shall be completed; and
- (c) Action utilized to assure ongoing compliance.

(4) The cabinet or its designee shall review the plan and notify the child-care center within thirty (30) calendar days of receipt of the plan, in writing, of the decision to:

- (a) Accept the plan;
- (b) Not accept the plan; or
- (c) Deny, suspend, or revoke the child-care center's license, in accordance with Section 11 of this administrative regulation.

(5) A notice of unacceptability shall state the specific reasons the plan is unacceptable.

(6) A child-care center notified of the unacceptability of its plan shall:

- (a) Within ten (10) calendar days of notification, submit an amended plan; or
- (b) Have its license revoked or denied for failure to submit an acceptable amended plan in accordance with KRS 199.896(4).

(7) Following two (2) unacceptable plans of correction, in a forty-five (45) calendar day period, the cabinet may deny or revoke an application for licensure or license.

(8) The administrative regulatory violation reported on a statement of deficiency that poses an immediate threat to the health, safety, or welfare of a child shall be corrected within five (5) working days from the date of the statement of deficiency in accordance with KRS 199.896(5)(c).

Section 10. Intermediate Sanctions. (1) If the cabinet determines that a child-care center is in violation of this administrative regulation, 922 KAR 2:110, or 922 KAR 2:120, the cabinet may, based on the severity of the violation:

- (a) Require the provider to participate in additional training;

- (b) Increase the frequency of monitoring by cabinet staff;
 - (c) Enter into an agreement with the provider detailing the requirements for remedying a violation and achieving compliance; or
 - (d) Notify or require the provider to notify a parent of a child who may be affected by the situation for which an intermediate sanction has been imposed.
- (2) An intermediate sanction shall result in a suspension or revocation of the license if a child-care center:
- (a) Fails to meet a condition of the intermediate sanction; or
 - (b) Violates a requirement of an intermediate sanction.

Section 11. Basis for Denial, Suspension or Revocation. (1) The cabinet shall deny, suspend, or revoke a preliminary or regular license in accordance with KRS 199.896(4) and (19) if the applicant for licensure, director, employee, or a person who has supervisory authority over, or unsupervised contact with, a child fails to meet the requirements of this administrative regulation or those of 922 KAR 2:110 or 922 KAR 2:120.

(2) For the purposes of KRS 199.896(19), an applicant who has been found by the cabinet to have abused or neglected a child shall mean an individual who is listed on the central registry described in 922 KAR 1:470.

(3) An individual described in Section 6(4) of this administrative regulation shall report to the licensee if:

(a) Convicted of, or entered an Alford or guilty plea to:

1. A violent crime or sex crime in accordance with KRS 17.165; or
2. A crime specified in Section 6(6) of this administrative regulation;

(b) The subject of a cabinet child abuse or neglect investigation;

(c) Found by the cabinet or a court to have abused or neglected a child;

(d) Convicted of, or entered an Alford or guilty plea to, a drug-related felony, and five (5) years have not elapsed since the person was fully discharged from imprisonment, probation, or parole;

(e) Placed on the Sex Offender Registry; or

(f) Determined by a physician to have a health condition that renders the person unable to care for children.

(4) Each licensee shall report to the cabinet or its designee if the:

(a) Licensee or an individual described in Section 6(4) of this administrative regulation meets a criterion of subsection (3) of this section; or

(b) Licensee meets a criterion of subsection (7)(j) of this section.

(5) Emergency Action. (a) The cabinet shall take emergency action in accordance with KRS 199.896(4) by issuing an emergency order that suspends a child-care center's license.

(b) An emergency order shall:

1. Be served to a licensed child-care center in accordance with KRS 13B.050(2); and
2. Specify the regulatory violation that caused the emergency condition to exist.

(c) Upon receipt of an emergency order, a child-care center shall surrender its license to the cabinet.

(d) The cabinet or its designee and the child-care center shall make reasonable efforts to:

1. Notify a parent of each child in care of the center's suspension; and
2. Refer a parent for assistance in locating alternate child care arrangements.

(e) A child-care center required to comply with an emergency order issued in accordance with this subsection may submit a written request for an emergency hearing within five (5) calendar days of receipt of the order to determine the propriety of the licensure's suspension.

(f) The cabinet shall conduct an emergency hearing within ten (10) working days of the request for hearing.

(g)1. Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written decision affirming, modifying, or revoking the emergency order to suspend licensure.

2. The emergency order shall be affirmed if there is substantial evidence of an immediate threat to public health, safety, or welfare.

(h) A provider's license shall be revoked if the:

1. Provider does not request a hearing within the timeframes established in paragraph (e) of this subsection; or

2. The emergency order is upheld by the administrative hearing conducted in accordance with KRS Chapter 13B.

(6) Public information shall be provided in accordance with KRS 199.896(10) and (11), and 199.898(2)(d) and (e).

(7) Unless an applicant for a license meets requirements of Section 6(8) of this administrative regulation, the cabinet shall deny an applicant for a preliminary or regular license if:

(a) The applicant has had previous ownership interest in a child-care provider which had its certification, license, or registration, or permit to operate denied, suspended, or revoked;

(b) Denial, investigation, or revocation proceedings were initiated, and the licensee voluntarily relinquished the license;

(c) An appeal of a denial, suspension, or revocation is pending;

(d) The applicant previously failed to comply with the requirements of KRS 199.896, 922 KAR 2:110, 922 KAR 2:120, or this administrative regulation;

(e) An individual with ownership interest in the child-care center has been discontinued or disqualified from participation in:

1. The Child Care Assistance Program established by 922 KAR 2:160, including an intentional program violation in accordance with 922 KAR 2:020; or

2. Another governmental assistance program due to fraud or abuse of that program;

(f) The applicant is the parent, spouse, sibling, or child of a previous licensee whose license was denied, suspended, revoked, or voluntarily relinquished as described in paragraphs (a) through (d) of this subsection, and the previous licensee will be involved in the child-care center in any capacity;

(g) The applicant listed as an officer, director, incorporator, or organizer of a corporation or limited liability company whose child-care center license was denied, suspended, revoked, or voluntarily relinquished as described in paragraph (a) through (d) of this subsection within the past seven (7) years;

(h) The applicant knowingly misrepresents or submits false information on a form required by the cabinet;

(i) The applicant interferes with a cabinet or other agency representative's ability to perform an official duty pursuant to Section 6(11)(f) or 6(12) of this administrative regulation;

(j) The applicant's background check reveals that the applicant:

1. Is listed on the:

a. Central registry in accordance with 922 KAR 1:470; or

b. Sex Offender Registry; or

2. Has been convicted of, or entered an Alford or guilty plea to, a crime specified in Section 6(6) of this administrative regulation, including a felony offense involving fraud, embezzlement, theft, or forgery; or

(k) The licensee is the subject of more than two (2) intermediate sanctions during a three (3) year period.

(8) A child-care center's license shall be revoked if:

(a) A representative of the center interferes with a cabinet or other agency representative's ability to perform an official duty pursuant to Section 6(11)(f) or 6(12) of this administrative regulation;

(b) A cabinet representative, a representative from another agency with regulatory authority, or parent is denied access during operating hours to:

1. A child; or

2. The child-care center;

(c) The licensee is discontinued or disqualified from participation in:

1. The Child Care Assistance Program as a result of an intentional program violation in accordance with 922 KAR 2:020; or

2. A governmental assistance program as a result of fraud or abuse of that program;

(d) The licensee fails to meet a condition of, or violates a requirement of an intermediate sanction pursuant to Section 10(2) of this administrative regulation;

(e) The applicant or licensee knowingly misrepresents or submits false information on a form required by the cabinet; or

(f) The licensee is the subject of more than two (2) intermediate sanctions during a three (3) year period.

(9) The cabinet or its designee shall suspend the license if:

(a) Regulatory violations are found that pose an immediate threat to the health, safety, and welfare of the children in care as described in KRS 199.896(4); or

(b) The child care-center fails to comply with the approved corrective active plan.

Section 12. Civil Penalty. The cabinet shall assess and enforce a civil penalty in accordance with 922 KAR 2:190.

Section 13. Right of Appeal. (1) If an application has been denied or a licensee receives notice of suspension or revocation, the cabinet shall inform the applicant for licensure or licensee by written notification of the right to appeal the notice of adverse action in accordance with KRS Chapter 13B and 199.896(7).

(2) An adverse action may be appealed by filing form OIG-DRCC-02, Licensed Request for Appeal or Informal Dispute Resolution. The request shall:

(a) Be submitted to the Secretary of the cabinet or designee within twenty (20) calendar days of receipt of the notice of adverse action; and

(b) Specify if an applicant for licensure or licensee requests an opportunity to informally dispute the notice of adverse action.

(3) If an applicant for licensure or a licensee files an OIG-DRCC-02 for a hearing, the cabinet shall:

(a) Appoint a hearing officer; and

(b) Proceed pursuant to KRS 13B.050.

(4) If an applicant for licensure or a licensee files a request for a hearing and a request for an informal dispute resolution, the cabinet shall:

(a) Abate the formal hearing pending completion of the informal dispute resolution process; and

(b) Proceed to informal dispute resolution.

Section 14. Informal Dispute Resolution. (1) A request for informal dispute resolution shall:

(a) Accompany the request for a hearing;

(b) Identify the licensure deficiency in dispute;

(c) Specify the reason the applicant for licensure or licensee disagrees with the deficiency; and

(d) Include documentation that disputes the deficiency.

(2) Upon receipt of the written request for informal dispute resolution, the regional program manager or designee shall:

(a) Review documentation submitted by the applicant for licensure or licensee; and

(b) If requested, schedule a first-level informal dispute resolution meeting with the applicant for licensure or licensee.

(3) The first-level informal dispute resolution meeting shall be held within ten (10) calendar days of receipt of the request by the cabinet, unless both parties agree in writing to an extension of time.

(4) The first-level informal dispute resolution meeting shall be conducted by:

(a) The regional program manager or designee; and

(b) A child care surveyor who did not participate in the survey resulting in the disputed deficiency.

(5) Within ten (10) calendar days of completion of the first-level informal dispute resolution meeting or request, the regional program manager or

designee shall:

(a) Issue a decision by written notification to the return address specified in the request for informal dispute resolution;

(b) If a change is made to the statement of deficiencies, issue an amended statement of deficiencies; and

(c) Specify whether the adverse action has been rescinded.

(6) An applicant or a licensee may appeal a decision issued by the regional program manager or designee by:

(a) Proceeding with a hearing according to KRS 13B.050; or

(b) Filing a written request for a second-level informal dispute resolution to the Director of the Division of Regulated Child Care or designee within ten (10) calendar days of receipt of the first level decision. The request shall specify whether the applicant for licensure or licensee requests a meeting with cabinet staff.

(7) Upon receipt of the written request for second-level informal dispute resolution, the Director of the Division of Regulated Child Care or designee shall:

(a) Review the decision issued from the first-level informal dispute resolution;

(b) Review the documentation described in subsection (1)(d) of this section; and

(c) If requested, schedule a second-level informal dispute resolution meeting with the applicant for licensure or licensee.

(8) The second-level informal dispute resolution meeting shall be held within ten (10) calendar days of receipt of the request by the cabinet, unless both parties agree in writing to an extension of time.

(9) Within ten (10) calendar days of completion of the second-level informal dispute resolution meeting or request, the Director of the Division of Regulated Child Care or designee shall:

(a) Issue a decision by written notification to the return address specified in the request for second-level informal dispute resolution;

(b) If a change is made to the statement of deficiencies, issue an amended statement of deficiencies; and

(c) Specify whether the adverse action has been rescinded.

(10) If a second-level informal review is requested in lieu of a first-level informal dispute resolution meeting, the Director of the Division of Regulated Child Care or designee shall comply with the provisions of subsection (9)(a) through (c) of this section within ten (10) calendar days of receipt of the request for second-level informal dispute resolution.

(11) If an applicant for licensure or licensee is satisfied with the decision issued during informal dispute resolution, the request for a hearing shall be withdrawn.

(12) If an applicant for licensure or licensee is not satisfied with the decision issued from the second-level informal dispute resolution, the hearing previously held in abeyance shall be conducted in accordance with KRS Chapter 13B concerning the deficiencies that were reviewed in the informal review process.

(13) A request for informal dispute resolution shall not:

(a) Limit, modify, or suspend enforcement action against the applicant for licensure or licensee; or

(b) Delay submission of a written plan of correction.

(14) Emergency action taken in accordance with Section 11(5) of this administrative regulation shall conform to the requirements of KRS 199.896(4). The informal dispute resolution process shall not restrict the cabinet's ability to issue an emergency order to stop, prevent, or avoid an immediate threat to public health, safety, or welfare under KRS 13B.125(2) and 199.896(4).

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "OIG-DRCC-01, Child-Care Center License Application", edition 4/2013; and

(b) "OIG-DRCC-02, Licensed Request for Appeal or Informal Dispute Resolution", edition 8/3/12.

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