# 5000: Administrative Actions

## Appendix 5000-1: Reviewing Waiver and Variance Requests

### Appendix 5000-1A: Guidance on Reviewing Day Care Waiver or Variance Requests

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The sub-items below relate to common waiver and variance requests. The sub-items provide guidance regarding what types of documentation may be needed and what information to consider when evaluating a waiver or variance request.

5000-1A.1 Director Qualifications for Licensed Child Care Centers, School Age Programs, and Before or After School Programs

5000-1A.2 GED or High School Diploma

5000-1A.3 Working Phone with a Listed Number

5000-1A.4 No Fence Around Playground or Yard

5000-1A.5 No Hand-Washing Sink in the Diaper-Changing Area

5000-1A.6 Shared Space

5000-1A.7 Indoor Equipment Soft Contained Play Equipment (SCPE)

5000-1A.8 Sprinkler Play

#### 5000-1A.1 Director Qualifications for Licensed Child Care Centers, School Age Programs, and Before or After School Programs

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| Documentation | Considerations |
| --- | --- |
| Transcripts of college courses (may also need course descriptions from college catalogs or course syllabi); see §744.1015(a), §746.1015(a), or §746.1017(a) | Evaluate courses for relevance to the minimum standard that is the subject of the waiver or variance request.  For a waiver or variance to be approved, the applicant or designee for a director position must have at least one-half of the education, training, and experience requirements, unless:  • the person is seeking to be a site director at a BAP or SAP, which care for school-age children for shorter periods of time; or  • granting the waiver or variance would result in a licensed child care center (one that currently shares its director with another center) having its own director. |
| Training logs or certificates; see §744.1017(a) or §746.1017(a)(7) | Evaluate for relevance to child development or management requirements. Conversion:  50 clock hours = 5 CEUs = 3 SCHs  CEUs (continuing education units)  SCHs (semester credit hours) |
| Personal History Statement, Form 2982; see §744.1015(a), §744.1017(a), §746.1015(a), or §746.1017(a) | Evaluate work experience. Count the years the person has worked at a licensed operation, exempt operation regulated by some other entity, or public or private accredited school where teaching experience for primary grades (Pre-K - 3) was obtained. |

| Other Factors | Considerations |
| --- | --- |
| Size of operation | Recognize large operations need and should be able to afford a fully qualified director. |
| Overall compliance history of the operation | Understand an operation with a good compliance history has different needs in a director than a new operation or one with ongoing compliance issues. |
| Other waivers or variances requested | • Does the operation already have several waivers or variances in effect or are there only a few?  • How many of the operation’s previous directors required a waiver or variance for director’s qualifications? |

Conditions

Licensing staff must be able to monitor and enforce the conditions. Licensing staff must specify exactly what is needed to meet minimum standards and a timetable or plan for achieving it. Consequently, the operation documents progress toward meeting the applicable standard and makes the documentation available for Licensing’s review.

Example

The director must complete six college credit hours of Business Management. The operation must provide proof of enrollment in courses to your Licensing representative and proof of successful completion before the expiration date of this waiver or variance. Business Management includes any administrative or supervisory course and may include a child development course, which is in administration of a child care operation. Accounting, goal and objective setting performance, planning and evaluation, and so on, all count towards business credit. This variance applies only to [insert name of director] while working towards compliance with the standard.

Documentation in CLASS in *Director/Administrator* Section

| Circumstance | Where and How to Document |
| --- | --- |
| A designated director of a licensed child care center | In the *How DC Director Qualified* field select “Waiver Variance Requested” |
| A second director of a licensed child care center | In the *How DC Director Qualified* field select “Waiver Variance Requested” |
| Any type of director of a before or after-school program or a school-age program | Leave the *How DC Director/Site Director Qualified* field blank |

#### 5000-1A.2 GED or High School Diploma

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| Documentation Needed | Considerations |
| --- | --- |
| Enrollment in a GED study program (or 18 years of age and in a high school child development program such as HECE) | This is the minimum education requirement; all caregivers and employees should meet the standard. Are they working at passing the test or just planning on taking and retaking the tests over time? |
| Other situations where person has shown ability (other courses taken, jobs held) | Have they met the requirement in another way? |
| Situation person is working in Registered Child Care Home, Licensed Child Care Home, or Licensed Child Care Center | **• Registered Child Care Home** Provider is the only caregiver and so must be able to take care of emergencies, etc., even while working toward GED.  **• Licensed Child Care Home** Qualified employees can supervise employees (director should not be waived under most circumstances).  **• Licensed Child Care Center** Employee is just one of several adults who can assure safety of children. |
| Person is 60 years of age or older | A variance may be granted for three years. The person may choose to work toward meeting the requirement or obtain 5 additional hours of annual training each year. After the three years, the person may no longer be counted in ratio, unless they meet the minimum requirement. |
| Compliance history of operation; other waivers in effect? | • Are they having problems maintaining compliance?  • Is there a pattern of hiring unqualified employees?  • How many employees have a GED waiver (small vs. large program should have different limits on unqualified employees).  • Is the director also unqualified? |

Conditions

Licensing staff must be able to monitor and enforce conditions. The caregiver must show progress toward meeting the standard (course attendance, proof of taking tests and completion of GED or high school), and this must be documented for review by Licensing.

Employees 18 years of age and in high school but not in a work-study program should not be counted in the child caregiver ratio unless another qualified adult not counted in ratio is present and available to assist. Licensing staff should consider additional training hours.

Example

This variance pertains only to [insert name of person] while he or she works toward compliance with the standard. [Insert name of person] will attend and participate in GED classes and take the GED examination. Progress for the GED must be maintained and be documented for review by your Licensing representative. The operation must submit proof of successful completion of the GED to the Licensing representative no later than [insert date]. This variance will not be renewed.

#### 5000-1A.3 Working Phone with a Listed Number

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Documentation Needed

The caregiver must be able to respond quickly in an emergency and parents must be able to easily access the caregiver by phone during all hours of business.

Considerations

• Is the operation an after-school program serving school-aged children in a public school building that does not have a listed phone number?

• Are operations under the auspices of the same governing body and/or ownership?

• Are operations in more than one location?

• Does the governing body have a central location to ensure all incoming calls are immediately routed to the correct operation?

• Is this a temporary situation and if so, for how long?

• Is this a temporary situation and if so, for how long?

• Is the primary caregiver of a registered or licensed child-care home working toward compliance with the standard?

• Does the caregiver have a plan for emergency use of a nearby telephone while continuing to ensure the supervision of children?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should be stated so that operation’s compliance (following plans, assuring safety, and so on) can be monitored.

Example

The governing body (or RFH caregiver) submits a plan to Licensing staff outlining its procedures for insuring immediate access to a telephone located in the building for outgoing calls. Parents must sign a written statement indicating the operation has no phone on the premises, and give directions on how the parent is to reach the operation in an emergency. This letter must be posted next to the permit.

#### 5000-1A.4 No Fence Around Playground or Yard

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Documentation Needed

• Drawings with measurements

• Photos of the area

• Outdoor floor plan

• Description, photos or video of surrounding areas

Considerations

• Can children be supervised adequately enough to assure their safety?

• Are there things (temporary barriers, and so on) that can be effectively used to enclose the area?

• Is there an absence of hazards (traffic, ditches, creeks, and so on) immediately surrounding the area?

• Is there a limit on the amount of time the area will be unfenced (such as, while they build a new playground, or get enough money for a fence)?

• Is the operation in a public school building?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should specify what steps the operation will take to assure the children’s safety. The expiration date of the waiver should allow for assessment of changing conditions (such as an increase in traffic in a previously rural area) or agreed-on date of compliance.

Example

The director must ensure employees follow plan to place cones out for psychological boundaries before children go outside. Two employees in addition to the regular child caregiver ratio must supervise children while outside.

The operation must be able to show progress toward installation of a fence no later than three weeks before expiration of the waiver. The fence must be installed and ready for use by the expiration date of this waiver or variance. This waiver or variance will not be renewed.

#### 5000-1A. 5 No Hand Washing Sink in the Diaper Changing Area

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Documentation Needed

• Drawings of floor plan with measurements or photos

• Written plan that answers considerations

Considerations

• What is the operation’s plan for ensuring caregivers wash hands after each diaper change?

• Is there an economic reason for having no sink?

• What is the operation’s plan for ensuring that all children are supervised at all times?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should specify what steps the operation will take to assure the children’s health and supervision and that the minimum standard must be met by the expiration date of the variance.

Licensing staff must observe hand washing and diaper changing procedures.

Example

Two employees must be present in any room where children are in diapers at all times to ensure that diapers are changed promptly, hands are washed after each diaper change, and children are supervised at all times.

#### 5000-1A.6 Shared Space

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Documentation Needed

• Drawings of floor plan with measurements or photos

• Documentation regarding what other program uses space during hours of operation

• Written plan that answers considerations

Considerations

• Is the operation in a public school building?

• What is the operation’s plan for preventing children from mixing freely with others?

• What is the operation’s plan if they have to move to an alternate space?

• What is the operation’s plan for ensuring that all children are supervised at all times?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should specify what steps the operation will take to assure the children’s health and supervision.

Example

Children enrolled in the program must not mix freely with children and adults not enrolled in the program. The activity areas for the two programs should be separated at all times. Staff must escort children to and from the bathroom facilities. Staff must check the bathrooms to make sure they are empty before allowing children from the program to enter.

#### 5000-1A.7 Indoor Equipment Soft Contained Play Equipment (SCPE)

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Documentation Needed

• Drawings of floor plan with measurements or photos

• Written plan that answers considerations including:

• evacuation and relocation plans specific to the SCPE;

• fire drills that include evacuation of the SCPE; and

• cleaning and maintenance of equipment following manufacturer’s instructions

Considerations

• What is the operation’s plan for ensuring children’s health and safety?

• Refer to Assessing Indoor Soft Contained Play Equipment (SCPE) for Hazards checklist, Form 7294 in the DFPS automated forms system.

• What are the ages of the children who will be using the equipment?  Not appropriate for children less than five years of age.

• Is the SCPE located outdoors? If so, then use the outdoor safety standards as a guide.

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should specify what steps the operation will take to assure the children’s health and supervision, and should be stated so that the operation’s compliance can be monitored. Licensing staff must observe the children and staff on the SCPE.

Example

Only children age five and older may use equipment; at least one caregiver must be positioned on each level of the soft contained play equipment (SCPE) that children have access to. These caregivers must have lines of visibility between users and other persons supervising. Caregivers must be able to supervise children when children are using tube slides. The SCPE must be maintained and cleaned according to manufacturer’s instructions. A copy of the manufacturer’s instructions must be on file at the center and available for review during hours of operation. Evacuation and relocation plans specific to the SCPE must be developed and posted in the area of the SCPE.  Fire drills must include evacuation of the SCPE.

#### 5000-1A.8 Sprinkler Play

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Documentation Needed

• Drawings of area with measurements or photos

• Written plan that answers considerations

Consideration

• What is the operation’s plan for ensuring the children’s health and safety?

• What is the operation’s plan for ensuring that all children are supervised at all times?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should specify what steps the operation will take to assure the children’s health and supervision and should be clearly stated so that the operation’s compliance can be monitored.

Example

Children must wear rubber-soled water shoes when participating in sprinkler play. Children must not be allowed to run when participating in sprinkler play. No climbing equipment or chairs may be present on or around the water play area. The group size will not exceed 12 children using the water park or sprinkler area. The caregiver to child ratio must be maintained to provide adequate supervision.

### Appendix 5000-1B: Guidance on Reviewing Residential Child Care Waiver or Variance Requests

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When assessing the following types of waiver or variance request, certain information should be considered, along with sufficient documentation to verify information when appropriate.

See:

5000-1B.1 GED or High School Diploma

5000-1B.2 Extending a Child’s Stay

5000 1B.3 Medical Exam Within 30 Days

5000-1B.4 Foster Home Ratios

5000-1B.5 Children Younger Than Five Years in a Foster Group Home

5000-1B.6 Children of the Opposite Sex Sharing a Bedroom

#### 5000-1B.1 GED or High School Diploma

LPPH November 2008 DRAFT 5722-CCL (formatting changes only; no new revision date)

| Documentation | Considerations |
| --- | --- |
| School enrollment or enrollment in a GED program | How close is the person to completing the educational requirements? |
| Other relevant work, training or course experience | How much experience does the person have? |
| Type of job responsibilities, environment and operation the person will be working in | • Will the person have adequate supervision and support?  • Will the person have adequate training to work with the child population?  • Will the person have adequate training to meet the job responsibilities?  • Will the training be given prior to being left alone with children? |
| Compliance history of the operation | • Is the operation having trouble meeting standards?  • Is there a pattern of hiring unqualified employees?  • Is the administrator or any other key person in the operation also unqualified?  • How many employees have a GED or high school variance?  • What is the size and location of the operation (smaller operations and operations in smaller communities may have different limits on unqualified staff)? |

Waiver or Variance Considerations

Licensing staff must be able to monitor and enforce conditions. Documentation must specify what steps will be taken toward meeting educational requirements. Course attendance, documentation proving successful completion of GED tests, and earning a GED or high school diploma must be available for review by Licensing.

Example

The variance pertains only to [insert name of person] while he completes the remaining two out of three GED exams to meet compliance with minimum standards. Documentation of his GED class enrollment and successful completion of the GED program must be maintained in the personnel record. [Insert name of person] must submit proof of successful completion of the GED to the Licensing representative no later than two months from this date. The variance will expire on [insert date].

#### 5000-1B.2 Extending a Child’s Stay

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Documentation Needed

• Reason for need to extend the child’s stay

Consideration

• Is this in the best interest of the child?

• Are there other viable options?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should be stated so that the operation’s compliance can be monitored.

Example

This variance only applies to Child A for this placement. The variance expires when Child A is discharged or by [insert date], whichever occurs sooner. The operation will maintain contact with Licensing regarding the status of the potential placement plans.

#### 5000-1B.3 Medical Exam Within 30 Days

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Documentation Needed

• Reason additional time is requested

Considerations

• Does the child have any special health needs?

• What is the child’s age?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should be stated so that the operation’s compliance can be monitored.

Example

This variance only applies to [insert child’s first name and the last name’s initial] in the home of [insert names of caregivers]. The child must receive medical care as needed for illness or injury. This variance expires [insert date] or when a medical exam has been obtained for the child, whichever is sooner.

#### 5000-1B.4 Foster Home Ratios

LPPH November 2008 DRAFT 5722-CCL (formatting changes only; no new revision date)

Documentation Needed

• Reason for request

Considerations

• What is the operation’s compliance history?

• Is there support available for the foster parents?

• What is in the best interest of the child?

• Is the child related to one or more other children in care?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should be stated so that the operation’s compliance can be monitored.

Example

This variance only applies to [insert child’s first name and the last name’s initial] in the home of [insert names of caregivers]. Arrangements for respite will be made if the foster parents feel they need it. The CPA will conduct monthly home visits while the variance is in effect. The CPA must provide services in accordance with the Minimum Standards for Child-Placing Agencies.

#### 5000-1B.5 Children Younger Than Five Years in a Foster Group Home

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Documentation Needed

• Reason for request

Considerations

• What is the operation’s compliance history?

• Is the child related to one or more other children already in care?

• What is in the best interest of the child?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should be stated so that the operation’s compliance can be monitored. Licensing staff may consider reducing the home’s capacity while the variance is in effect.

Example

This variance only applies to [insert child’s first name and the last name’s initial] in the home of [insert names of caregivers]. The variance expires when the child is adopted or otherwise discharged or on [insert date], whichever is sooner. No additional placements may be made while the variance is in effect.

#### 5000-1B.6 Children of the Opposite Sex Sharing a Bedroom

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Documentation Needed

• Reason for request

Considerations

• What is the operation’s compliance history?

• Do one or more of the children have identified special needs?

• What is in the best interest of the children?

• What are the ages of the children the request is for?

• Are the children related?

Conditions

Licensing staff must be able to monitor and enforce conditions. Conditions should be stated so that the operation’s compliance can be monitored.

Example

This variance only applies to [insert child’s first name and the last name’s initial] in the home of [insert names of caregivers]. The home will develop and follow a written plan for supervision.