

## **PROVIDER'S GUIDE TO THE CHILD DAY CARE/YOUTH CAMP**

### **INVESTIGATION AND ENFORCEMENT PROCESS**

Navigating the investigation and enforcement processes can be difficult and confusing. The following information is intended to be a guide for individuals who participate in the process, and for individuals who would like to know more about how the process works.

#### **The Complaint Investigation**

In most instances the process begins with a complaint. The Complaint Investigation Unit responds to all complaints on both licensed and unlicensed facilities throughout the state. Complaints are received from a variety of sources that include parents, staff, neighbors, the Department of Children and Families (DCF), law enforcement officials, local health departments, and other providers.

Each day a person is assigned to be the complaint intake person. The intake person is responsible for obtaining the "who, what, when, where, and how" of the allegation. The allegations are logged into the computer. The complaint is then assigned by the complaint investigation supervisor to a child day care licensing specialist or youth camp inspector. Complaints range from allegations pertaining to physical plant issues to allegations of abuse and neglect. If an allegation of abuse/neglect is reported from a source other than DCF, the Department of Public Health (DPH) makes a report to the DCF Careline. In all cases in which there is an allegation of abuse or neglect, the investigation is coordinated with the DCF. DCF focuses on the specific allegations of abuse/neglect and DPH focuses on compliance with the child day care/youth camp statutes and regulations.

All complaints, which fall within the jurisdiction of DPH, are investigated. Each investigation includes a site visit, in which the specialist/inspector makes observations throughout the facility, reviews records, and speaks to staff. If violations are cited, the investigator discusses the violations with the provider and leaves a corrective action plan form for the provider to complete within the required time frame. In addition to the site visit, the investigation may also include interviews, parent reviews, facility observations, and a review of reports from medical facilities, police departments, DCF, and other agencies. Surveillance is also conducted during some complaint investigations.

If during the site visit violations are found, and the provider disagrees or does not understand the violation(s), the provider may request a supervisory review. The telephone number is (860) 509-8045. If the provider disputes the supervisor's review, the provider may ask the program manager to conduct a case review. The telephone number is (860) 509-8045 or 1-800-282-6063. If the program manager decides that the violations exist, the provider must correct the violations. The provider may attach dissenting comments to the violation document.

#### **The Enforcement Process**

When DPH has reason to believe a licensed facility has failed to substantially comply with the Regulations as the result of a complaint investigation, has a continuing pattern of non-compliance, or fails to correct substantial violations, a document entitled "Notice of Violations and Opportunity For a Compliance Meeting" is sent to the Licensee/Provider. The document states how the provider was in violation of child day care licensing or youth camp regulations and offers the provider an opportunity to request a compliance meeting.

The compliance meeting is a discussion of the violations of regulations between the provider and department representatives. The purpose of the meeting is to give the provider the opportunity to dispute the violations and demonstrate compliance with the regulations. The provider often brings pictures, letters, and other materials to the meeting to assist him/her in presenting his/her cases. In many cases, the provider also brings his/her attorney to the compliance meeting.

There are five possible outcomes to the compliance meeting: (1) the Department may accept the provider's Corrective Action Plan and close the case; (2) the Department may request an additional corrective action plan called a "Negotiated Corrective Action Plan"; (3) the provider may enter into a voluntary agreement with DPH called a Consent Order (4) the provider may surrender the license; or, (5) the Department may issue a Statement of Charges proposing a licensure action which could include singly or in combination, a civil penalty, probation, license suspension, or license revocation.

A Negotiated Corrective Action Plan is an agreement between DPH and the provider, in which the provider agrees, in writing, to engage in additional training, revise policies/procedures, or make other changes within a specified time frame to enhance the program and maintain compliance with the regulations.

A Consent Order is a voluntary agreement between DPH and the provider, in which the provider voluntarily agrees to take certain steps above and beyond the regulations or order to retain the license. Such steps may include but are not limited to changes in capacity, changes in policies/procedures, additional policies and procedures, training, and a financial penalty. Consent Orders are negotiated settlements between DPH and the provider and, as a result, are individualized.

A Voluntary Surrender is a document signed by the provider in which the provider gives up his/her license and no longer provides care or camp to the children.

A Statement of Charges is a document that contains DPH's allegations against a provider and notifies the provider of his/her right to an administrative hearing. The Statement of Charges is issued in the most serious cases or when the matter cannot be resolved through a Consent Order or Voluntary Surrender.

When a Statement of Charges is issued, DPH sends the document to the provider by certified mail. At this point, if the provider does not have an attorney, the provider often secures the services of an attorney. The provider has thirty days from receipt of the document to request an administrative hearing. If the provider fails to request a hearing within the thirty-day time frame, DPH considers this right to be waived, and a final decision is issued, incorporating a remedy.

Upon receipt of a request for a hearing, the Hearing Office within DPH schedules a hearing within sixty days of the request. The hearing is the final step in the process. The administrative hearing is a formal and public proceeding that is held at DPH before a Hearing Officer.

The provider and/or his/her attorney present his/her case, and DPH and a Staff Attorney or an Assistant Attorney General presents DPH's case. The hearing is conducted according to statutory procedures and, DPH's Rules of Practice.

At the hearing, both parties present evidence to support their case. Written evidentiary materials can include but are not limited to inspection reports, police reports, and similar documents, as well as photographs, letters, and other materials. Witnesses may also be asked to testify on behalf of the provider or on behalf of DPH.

If you are asked to be a witness and provide testimony at a hearing you should:

- Listen to the questions carefully
- Answer the questions honestly
- Prepare for the opposing attorney to question you regarding your testimony
- Do not take the questions personally or respond personally to the questions asked
- Remember that you are not being judged
- Try not to be nervous
- If you didn't hear or didn't understand the question, ask the attorney to repeat the question
- Know that it's okay to say "I don't remember" or "I don't know"
- If you need a document to refresh your memory, ask for it
- Expect delays, you may have to wait to testify

If you don't want to be involved in a case, but the attorney believes your testimony is needed, the attorney can subpoena you. A subpoena is an enforceable court order that requires you to attend and testify at a hearing.

After the hearing is held, a Proposed Memorandum of Decision is issued for licensure action. If the provider or DPH is not satisfied with the proposed decision, the dissatisfied party has the right to file briefs and exceptions and present Oral Argument within a specified time frame. If a request is not received within the specified time frame, DPH considers the rights waived, and a Final Decision is issued incorporating a remedy.

When Oral Argument is requested, the argument is heard at DPH before a hearing officer who did not preside over the cases. The provider and his/her attorney and DPH and their attorney each have approximately fifteen minutes to present their case. A Final Decision is issued, approximately three weeks following the Oral Argument.

If the Final Decision following Oral Argument remains unchanged from the Proposed Memorandum of Decision, and the Provider or DPH is not satisfied, the aggrieved party may appeal to Superior Court in accordance with CGS 4-183 and 19a-85.

Another regulatory action that DPH may take is called a Summary Suspension. DPH may order a Summary Suspension of a licensed child day care program or youth camp without first holding a hearing whenever it finds that the health, safety, or welfare of day care children requires emergency action. This action immediately closes a facility and the provider may not re-open the facility unless the Summary Suspension is lifted. In these cases, the provider also does not have a right to compliance meeting. When DPH issues a Summary Suspension Order, the order is hand delivered. The Statement of Charges is attached to the Order, along with a document called "Notice of Hearing". The Notice of Hearing includes the date of the hearing and the time and place where the hearing will occur. The administrative hearing process is the same as stated above.

In all cases, when a final Decision is issued, it is effective thirty days after it is mailed by registered or certified mail to the provider (Connecticut General Statutes Section 19a-84(a)).