

**WAC 110-301-0440 Facility licensing compliance agreements, non-referral status, probationary license, and provider rights.**

(1) At the department's discretion, when a school-age provider is in violation of this chapter or chapter 43.216 RCW, a facility licensing compliance agreement (FLCA) may be issued in lieu of the department taking enforcement action. The FLCA must contain:

- (a) A description of the violation and the law or rule that was violated;
- (b) A proposed plan from the provider or a designee to comply with the law or rule;
- (c) The date the violation must be corrected, determined by:
  - (i) The seriousness of the violation;
  - (ii) The potential threat to the health, safety, and well-being of the children in care; and
  - (iii) The number of times the school-age program has violated rules in this chapter or under chapter 43.216 RCW.
- (d) Information regarding other licensing action that may be imposed if compliance does not occur by the required date; and
- (e) The signature of the department licensor and the licensee.

(2) A school-age provider must return a copy of the completed FLCA to the department after corrective action has been completed and by the date indicated.

(3) A school-age provider may request an internal review process regarding the violation of department rules pursuant to RCW 43.216.395.

(4) In an enforcement action against a school-age program or provider, the provider has the right to refuse to:

- (a) Accept or sign a FLCA.
- (b) Agree to a probationary license.

(5) If a school-age provider refuses a FLCA or probationary license, this may result in any of the following enforcement actions:

- (a) Modification of the license;
- (b) Noncontinuation of a nonexpiring license;
- (c) Suspension of the license;
- (d) Revocation of the license; or
- (e) Civil penalties.

(6) The department may place a school-age provider on nonreferral status, pursuant to RCW 43.216.325(4), in addition to or in lieu of an enforcement action under this chapter.

(7) A probationary license may be issued to a school-age provider or program operating under a nonexpiring license as part of a corrective action plan. Prior to issuing a probationary license, the department must refer the program or provider for technical assistance, pursuant to RCW 43.216.320(2).

(8) A department decision to issue a probationary license is based on a school-age program or provider's:

- (a) Negligent or intentional noncompliance with the licensing rules;
- (b) History of noncompliance with licensing rules;
- (c) Current noncompliance with licensing rules;
- (d) Fire safety inspection or health and sanitation inspection report that failed to gain approval;
- (e) Use of unauthorized space for the school-age program;
- (f) Inadequate supervision of children;
- (g) Understaffing for the number of children in care;

(h) Noncompliance with requirements addressing children's health, proper nutrition, discipline, emergency medical plan, sanitation or personal hygiene practices; and

(i) Any other factors relevant to the specific situation and consistent with the intent or purpose of chapter 43.216 RCW.

(9) When the department issues a probationary license, the school-age provider must:

(a) Provide notice of the probationary license and a copy of the department's probationary licensing agreement to the parents or guardians of enrolled children within five business days of receiving the probationary license;

(b) Provide documentation to the department that parents or guardians of enrolled children have been notified within ten business days of receiving the probationary license;

(c) Inform new parents or guardians of the probationary status before enrolling their children into care;

(d) Return the school-age program's nonexpiring license to the department; and

(e) Post documentation of the approved written probationary license as required by RCW 43.216.687.

(10) Pursuant to RCW 43.216.689, a school-age provider must have inspection reports and notices of enforcement actions for the past three years readily available for review by the department, parents, guardians, and the public.

[Statutory Authority: RCW 43.216.055 and 43.216.065. WSR 21-10-035, § 110-301-0440, filed 4/27/21, effective 6/1/21.]