

Compliance and Enforcement Standards Pursuant to the Nova Scotia Day Care Act and Regulations

Effective Date: January 1, 2020

To ensure you are accessing up-to-date information, please refer to the online version of these standards at www.ednet.ns.ca/earlyyears/acts_regs_standards.shtml.

The [Day Care Act](#) and [Day Care Regulations](#) are available online for convenient reference, however where accuracy is critical, please consult the official sources noted at the beginning of the online Act and regulations.

1. Introduction

Regulated child care facilities and family home child care agencies are licensed to ensure that they foster the health, safety, and well-being of children in their care. The licensee of a child care facility or family home child care agency is responsible for ensuring compliance with the Day Care Act (the Act) and Regulations (the regulations) always.

To ensure the safety and well-being of children while in regulated child care, the Licensing Services Division of the Department of Education and Early Childhood Development (EECD) monitors compliance of licensed facilities and agencies in accordance with the Act and regulations and takes appropriate action to enforce compliance when violations are identified.

2. Objective

The objective of these standards is to identify the steps that are followed when a regulated child care facility or family home child care agency is found to be in non-compliance with the Act and regulations.

These standards have been established by the Minister in accordance with Section 17 of the regulations.

3. Definitions

The following definitions are referred to in these standards:

“Agency director” refers to a person who provides daily on-site supervision of a family home day care agency.

“Chronic non-compliance” refers to a situation where a child care facility or family home day care agency has demonstrated at least one of the following:

- repeated violation(s) of the same regulation over a 12-month period or other period as determined by EECD
- two or more violations are found at every inspection conducted over a 12-month period or other period determined by EECD.

“Comply-by date” refers to the date by which violation(s) must be resolved. When the date falls on a weekend or holiday, compliance will be confirmed on the next business day.

“Department” refers to the Department of Education and Early Childhood Development (EECD).

“Department staff” refers to any employee of EECD.

“Enhanced monitoring” refers to an increased monitoring schedule over a specified period as determined by EECD.

“Facility action plan” refers to a written plan that is agreed to between the licensee and the licensing officer to address violations of the Act and regulations and to maintain compliance.

“Facility director” refers to the person who has primary responsibility for the day-to-day operations of the licensed facility.

“High priority violations” refers to a violation of the Act and regulations which could reasonably be expected to cause imminent risk of harm to children if operations proceed without immediate correction of the condition or practice. Examples of high priority violations are

- Neglecting to have the required screening documents (Vulnerable Sector Check or Child Abuse Registry Check) for newly hired staff who are working directly with children
- Leaving a child unattended in the indoor or outdoor play space of the facility or family home, without the knowledge of the staff or care provider
- The licensee failing to provide sufficient food for snacks and meals to meet the needs of the children
- Failing to follow recommendations by the Medical Officer of Health during a communicable disease outbreak (e.g., following proper handwashing procedures, implementing disinfecting procedures)
- A combination of violations identified during a single inspection that taken as a whole pose a potential risk to children

“Inspection” refers to Annual Licensing Inspections (ALI), Annual Unannounced Inspections, General Inspections (e.g. Complaints, Serious Incidents), and Monitoring Inspections.

“License” refers to the license issued or renewed pursuant to the Act. The license is the physical evidence that permission to operate has been granted.

“Licensing Inspection Report” refers to the form completed by the licensing officer during an inspection. Where necessary, the report lists violations with comply-by dates and is signed by the facility director or agency director. A copy must be posted in a conspicuous location in the facility or agency.

“Licensing officer” refers to the person who inspects facilities and agencies licensed under the Act on behalf of the Minister.

“Minister” refers to the Minister of Education and Early Childhood Development.

“Probationary license” refers to a short-term license issued by the Minister to a facility or agency when it is in non-compliance as outlined in the Enforcement section of these standards.

“Technical assistance” refers to information and support provided by Licensing Services to help licensees achieve and maintain compliance with the Act and regulations.

4. Licensing—General Information

4.1 Entry and inspection

In accordance with sections 8(1) and (2) of the Act, a licensing officer and other authorized department staff may at any reasonable time (e.g., licensing inspection, unannounced monitoring inspection, complaint investigation)

- enter the facility or agency and examine the premises
- examine the accounts, books, and records of the facility or agency
- assess the programs and services of the facility or agency

4.2 New and renewed licenses

New licenses are issued when the Minister is satisfied that the facility or agency is in compliance with the Act and regulations. If the Minister is not satisfied that the facility or agency is in full compliance, the Minister may reject the application for a license.

When all requirements are met, licenses are issued for a five-year term and may include any terms or conditions that the Minister decides are appropriate.

Before renewing a license, the Minister must be satisfied that the facility or agency complies with the Act and regulations unless the licensee has an approved plan in place that clearly identifies the remedy with a confirmed timeline.

4.3 Probationary license

The Minister may suspend the existing license of a facility or agency and issue a probationary license when it is in non-compliance with the Act and regulations.

Some examples of situations when a probationary license may be issued include the following:

- A licensee has failed to maintain correction of the violation(s) in accordance with the enforcement process.
- There has been a high priority violation that could reasonably give rise to imminent risk of harm to children.
- A licensee has demonstrated chronic non-compliance through either:
 - repeated violation(s) of the same regulation over a 12-month period or other period as determined by EECD; or
 - two or more violations are found at every inspection conducted over a 12-month period or other period determined by EECD.

Example:

Scenario 1

A centre receives 4 inspections between August 2018 and August 2019. These include:

- 1) Annual Inspection: 6 violations
- 2) First Monitoring Inspection: 2 violations

- 3) Second Monitoring Inspection: 3 violations
- 4) General Inspection (Complaint): 2 violations

Each of these inspections results have two or more violations. As a result, the centre would be identified with chronic non-compliance.

Scenario 2

A centre receives 4 inspections between August 2018 and August 2019. These include:

- 1) Annual Inspection: 8 violations
- 2) First Monitoring Inspection: 1 uncorrected and 1 new violation
- 3) Second Monitoring Inspection: 0 violations (comply by dates met and no new violations)
- 4) General Inspection (Complaint): investigation completed and centre found to be in full compliance

Out of 4 inspections, violations were found during 2. The centre corrected the violations and 2 additional inspections were clear. The centre would not be identified with chronic non-compliance.

4.4 Suspension or cancellation of license

In accordance with Section 6(1) of the Act, the Minister may suspend or cancel a license if the licensee is in breach of any provision of the Act or regulations or is not complying with the terms and conditions attached to their license.

In situations where the Minister determines on reasonable grounds that children are or may be in danger of imminent harm, the Minister may immediately cancel the license of a facility or agency, regardless of where the licensee is in the compliance and enforcement process.

5. Inspection

Regulated facilities and agencies are inspected a minimum of two times in every 12-month period; however, when non-compliance is identified or a complaint is received, licensing staff may conduct additional inspections.

6. Enforcement

6.1 Routine enforcement process

If it is determined through a licensing inspection or a complaint investigation that a facility or agency is in non-compliance, the process is as follows:

- (a) The violation(s) will be noted on the licensing inspection report (LIR), and a designated comply-by date will be set (typically within 30 days from the date of the inspection). A copy of the LIR will be provided to the licensee and must be posted in a conspicuous location in the facility or agency.
- (b) A **first monitoring inspection** will be conducted on the comply-by date, or next business day if the comply-by date falls on a weekend or holiday, to confirm that the identified violation(s) have been resolved. If all violations have been resolved, a new LIR will be provided to the licensee and must be posted in a conspicuous location in the facility or agency.

- (c) If any violations remain unresolved, a second comply-by date will be identified on a new LIR and must be posted in a conspicuous location in the facility or agency. A probationary warning letter will be sent to the licensee and must also be posted.
- (d) At the **second monitoring inspection**, if the violation(s) have not been corrected, the Minister may suspend the existing license and issue a probationary license. An updated LIR will be provided to the licensee that identifies a third comply-by date set one week prior to the expiry of the probationary license. The probationary warning letter and license must be posted in a conspicuous location in the facility or agency.
- (e) At the **third monitoring inspection**, if the violation(s) have not been corrected, the Minister may cancel the suspended license on the expiry date of the probationary license. A copy of the LIR will be provided to the licensee. If the license is cancelled, a letter from the Minister will be issued advising the licensee of the cancellation and any required action. The cancellation letter must be posted in a conspicuous location in the facility or agency.

NOTE: The Minister may notify the parent committee if the inspection results in the issuance of a probationary warning letter, a probationary license, or cancellation of the license, in accordance with regulation 47(8).

6.2 High priority violations process

When it is determined that a facility or agency has a high-priority violation, the process is as follows:

- The facility director or agency director must take action to address the violation immediately to minimize the risk. An LIR will be issued with a comply-by date, and the Minister will suspend the existing license and issue a probationary license for a specified period.
- The licensing officer will carry out enhanced monitoring inspections to ensure that there are no further occurrences of the violation or any other immediate safety concerns.
- If the same high priority violation recurs during the term of the probationary license, the Minister may advise the licensee that the probationary license and suspended five-year license are cancelled effective immediately.

6.3 Chronic non-compliance process

When it is determined that a facility or agency is in chronic non-compliance status, the process is as follows:

- Department staff will meet with the licensee to discuss concerns and provide technical assistance.
- The licensee will provide a written action plan detailing how they will address violations and maintain compliance.
- The licensing officer will complete enhanced monitoring inspections over a specified period as determined by EECD.
- If any violations are identified during the enhanced monitoring inspection period, the Minister may suspend the existing license and issue a probationary license.
- If any violations are identified during the term of the probationary license, the Minister may advise the licensee that the suspended license will be cancelled on the date of the expiry of the probationary license.

The chronic non-compliance status of a licensee will end when the licensee has maintained full compliance with the Act and regulations for 12 consecutive months.

7. Procedure for Review

Per Section 6(3) of the Act, a person affected by the Minister's decision to cancel, suspend, or refuse to issue, reissue, or renew a license can request that the Minister review that action.

8. Reapplication for a New License

If the decision to cancel a license is upheld by the Minister and, at a later date, the licensee expresses a desire to reopen the facility or agency, the licensee may apply for a new license under the Act and regulations.

Appendix: Compliance and Enforcement Process

