

5101:2-5-18

**Waivers and variances.**

- (A) The granting of a waiver of any requirement imposed by Chapters 5101:2-1, 5101:2-5, 5101:2-7, 5101:2-9, 5101:2-39, and 5101:2-42 of the Administrative Code is a discretionary act of the ~~Ohio department of job and family services (ODJFS)~~Ohio department of children and youth (DCY) based upon documentation as to why the agency or foster caregiver is not in compliance. The refusal of ~~ODJFS~~DCY to grant a waiver, in whole or in part, ~~shallis~~ shall be final and ~~shallis~~ shall not to be construed as creating any rights to a hearing under Chapter 119. of the Revised Code. Waivers ~~shall~~can only be requested, and will be considered on a case by case basis, for the following:
- (1) Relative foster homes when the request is for a non-safety issue. As used in this rule, relative has the same meaning as kin.
  - (2) A private, nonprofit therapeutic wilderness camp (PNTWC).
  - (3) A scholars residential center.
  - (4) An agency may request a waiver for a foster home in the event of a disaster or emergency where the home or part of the home becomes uninhabitable.
- (B) A request for a waiver ~~shallis~~ shall to be ~~written~~in writing and time limited. A waiver request ~~shallis~~ shall to include sufficient information, including the time period for which the waiver is requested. ~~The time limit of a waiver shall not exceed the expiration date of the current certificate. The time period is not to exceed two years.~~ Upon the written request of an agency, a waiver may be renewed, at the discretion of ~~ODJFS~~DCY, contingent upon documentation to ~~ODJFS~~DCY of the efforts of the agency or foster caregiver to come into compliance and the reasons they have not come into compliance.
- (C) A request for a waiver of the requirements or prohibitions imposed by Chapters 5101:2-1, 5101:2-5, 5101:2-9, 5101:2-39, and 5101:2-42 of the Administrative Code on an agency's administration ~~shallis~~ shall to be written ~~using~~on the JFS 01376 "Rule Waiver Request for Agencies, CRCs and Group Homes" and submitted to ~~the appropriate ODJFS field office~~DCY.
- (D) A request for a waiver of the requirements or prohibitions imposed upon a foster home or a foster caregiver by Chapters 5101:2-1, 5101:2-7, 5101:2-39, and 5101:2-42, of the Administrative Code and related foster home provisions of Chapter 5101:2-5 of the Administrative Code ~~shallis~~ shall to be requested through ~~the statewide automated child welfare information system (SACWIS)~~the Ohio comprehensive child welfare information system (Ohio CCWIS).

- (E) The approval of a waiver request ~~by ODJFS shall~~ is not to be construed as constituting precedence for the approval of any other waiver request or the renewal of an existing waiver.
- (F) Waiver requests that have been approved prior to the effective date of this rule ~~shall~~ are to remain in effect until the waiver expires unless the terms or conditions of the waiver are violated or otherwise become nullified by a situation or by a change in the applicable Administrative Code rule.
- (G) Effective October 1, 2011, no variances ~~shall~~ are to be approved.
- (H) Variance requests that have been approved prior to October 1, 2011 ~~shall~~ will remain in effect unless the terms or conditions of a variance are violated or otherwise become nullified by a situation or by a change in the applicable Administrative Code rule. If the variance is nullified, it ~~shall~~ is to be rescinded. ~~ODJFS~~ DCY has sole discretion in the rescission of a variance. The rescission of a variance ~~shall~~ is not to be construed as creating any rights to a hearing under Chapter 119. of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 9/11/2024

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Certification

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Date

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