



## Section 4

# License Denied, Suspended or Revoked and Appeals





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This section is for people who are refused a license, and for people who have a license that is suspended or revoked (cancelled.) This section explains why these things could happen and what to do to correct the situation. It also explains the process to appeal a decision to deny, suspend or revoke a license.

In this section, some of the requirements of the Act and Regulations have been summarized. If your license has been denied, suspended or revoked, refer to the Act and Regulations for exact wording.

# 4

## 15 Deny a License

15 Where the Director refuses to issue a license on an application made under section 10, the Director shall, without delay, give notice of the refusal, in writing, to the applicant and specify the reasons for the refusal.

## 16 Suspend a License

16(1) Where the Director believes on reasonable and probable grounds that health, safety or well-being of a child attending a child day care facility is endangered, the Director may suspend the license of the operator of that day care facility.

16(2) Where the Director believes on reasonable and probable grounds that the operator of a child day care facility or an employee or an agent of the operator has contravened this Act or the regulations, the Director may

- (a) Order, in writing, the operator to take the measures that the Director considers necessary within a specific time to remedy the non-compliance; and
- (b) Serve a copy of the order referred to in paragraph (a) on the operator.

16(3) Where an operator does not comply with an order made under subsection (2), the Director may suspend the license of the operator.

The Act, Sections 15 to 19

## Decision to Deny, Suspend, Reinstate or Revoke a License

### Why

- To ensure quality care, instruction and supervision of children
- To ensure that child care operators are following the law – the *Child Day Care Act* and *Child Day Care Standards Regulations*
- To explain the process the Director will follow to deny (refuse) a license in the first place, or to suspend, reinstate or revoke (cancel) an existing license
- To explain what the license applicant or operator has to do if a license is denied, suspended or revoked (cancelled)

16(4) The Director shall notify, in writing, an operator of the suspension of the license of the operator and specify in the notice

- (a) The reason for the suspension; and
- (b) The period of time within which the operator may apply for the reinstatement of the license

16(5) Where a license is suspended under subsection (1), the Director shall, unless he or she considers it inappropriate in the circumstances, specify in the notice given under subsection (4) the measures to be taken by the operator to ensure that the health, safety or well-being of a child attending the child day care facility is not endangered.

16(6) Where a license is suspended under subsection (3), the Director shall specify in the notice given under subsection (4) the measures to be taken by the operator to remedy the non-compliance.

### What it means

- When the Director denies, suspends or revokes (cancels) a license, the license applicant or operator will receive written notification of the reasons, what they have to do to remedy the situation, and a time frame.
- The child care program **must** not operate when a license has been suspended or revoked. It **must** close immediately and remain closed until the license is reinstated.
- The license applicant or operator must make the changes that the Director identifies, within the time frame given.
- The license applicant or operator can then apply to the Director to issue a license or to have the license reinstated.
- If the Director is satisfied that the license applicant or operator has made the required changes, the Director will issue or reinstate the license and the program can operate.
- If the Director is not satisfied that the license applicant or operator has made the required changes, the Director will not issue a license or will revoke (cancel) the license and the program must remain closed.

## 17 Reinstate a License

17(1) Where the license of an operator has been suspended, the operator may apply to the Director to have his or her license reinstated within the time stated in the notice of suspension.

17(2) On receipt of an application under subsection (1), the Director may reinstate the license

- (a) In the case of a suspension under subsection 16(1), where the Director is of the opinion that the health, safety or well-being of a child is no longer endangered; and
- (b) In the case of a suspension under subsection 16(3), where the Director is of the opinion that the operator is in compliance with this Act and the regulations.

17(3) notwithstanding subsection (2), the Director may reinstate a license suspended pursuant to subsection 16(1), without an application in that regard, where the Director is of the opinion that the grounds for the suspension no longer exist and that it is appropriate in the circumstances to do so.

### How

- Avoid problems in the first place:
  - Keep the health, safety and well-being of children as the main focus of all decisions and actions.
  - Follow the law – the *Child Day Care Act* and *Child Day Care Standards Regulations*.
  - Ask the Regional Early Childhood Officer for help, if needed.
- If a license is denied or suspended:
  - Read the *Child Day Care Act*, Sections 16 through 19, to know exactly what the Director will do, and what the license applicant or operator has to do. Take the license denial or suspension process seriously:
    - > If your license application is denied make the changes the Director has asked for, and reapply for a license.
    - > If your license is suspended, close the child care facility immediately, make the changes the Director has asked for, and apply to have your license reinstated.
  - Ask the Regional Early Childhood Officer for help, if needed.

## **18 Revoke a License**

18(1) The Director may revoke a license of an operator where the operator

- (a) Has not applied for the reinstatement of a license that has been suspended within the time stated in the notice of suspension;
- (b) Has applied for the reinstatement of a license that has been suspended and the Director has refused to reinstate the license; or
- (c) Has persistently contravened this Act or regulations

18(2) the Director shall

- (a) Notify, in writing, an operator of the revocation of the license of the operator;  
and
- (b) Specify the reason for the revocation

## **19 Close a Child Day Care Facility**

19 An operator whose license is suspended or revoked shall, without delay, close the child day care facility.

## 20(1)

A person who has been refused a license or an operator whose license has been suspended or revoked may appeal the decision of the Director to a person or persons designated by the Minister under section 21.

## 20(2)

A person or operator may, within 30 days after receipt of the notice of the refusal of a license or the suspension of the revocation of his or her license, file with the Minister a notice of appeal and state in the notice the reasons for the appeal.

The Act, Sections 20(1) and (2)

## Appeal License Decision Within 30 Days

### Why

- Appeals are available to anyone who believes that the decision regarding their child care license is not correct.
- The appeal process is an opportunity to provide additional information that may influence the decision made about the license.

### What it means

- The license applicant or operator may file a notice of appeal with the Minister of Education within 30 days of receiving the notice of refusal, suspension or revocation (cancellation) of a license.
- The notice of appeal must include reasons why the license applicant or operator thinks the decision should be overturned or changed.

### How

- Write the appeal, or ask someone else to write the appeal, so that it is clear and contains only important and necessary information. Ask someone else to read it and make suggestions if wording is not clear.
- Send the appeal to the Minister within 30 days.
- Remember that if a license is denied, suspended or revoked it is because the Director has concerns about the care, instruction or supervision of children. It's not a personal criticism of the license applicant or operator.



## 4(1)

An appeal heard under section 20 of the Act must, wherever possible, be held in the community in which the child day care facility is, or is intended to be, located.

Regulation 4(1)

## Appeal Location

### Why

- For the convenience of the person who filed the appeal

## Act 21

Upon receipt of a notice of appeal, the Minister shall, without delay, designate a person or persons who do not work in the department of the Government of Nunavut that administers this Act to hear the appeal.

## 4(2)

A designate must, wherever possible, be appointed from the community in which the child day care facility is, or is intended to be, located.

The Act, Section 21 and Regulation 4(2)

## Appointment of a Designated Person to Hear the Appeal

### Why

- To name a person to represent the Minister of Education during an appeal

### What it means

- The Minister designates a person to hear the appeal, without delay.
- The designated person will hear the appeal on the Minister's behalf.
- The designated person does not work for the Department of Education.
- Whenever possible, the designated person is a member of the community where the child care facility is located, or is proposed to be located.

## Act 22(1)

On being notified of the designation referred to in section 21, a designate person shall, without delay,

- (a) Set a time and place for the hearing of the appeal; and
- (b) Notify the appellant and the Director of the time and place of the hearing of the appeal.

## 5

A designated

- (a) shall conduct the appeal in the manner that the designate considers most appropriate for the prompt resolution of the appeal; and
- (b) may exercise the same power as a justice with respect to compelling the attendance of witnesses, examining witnesses under oath and compelling the production and inspection of books, papers, documents, and things.

The Act, Section 22(1) and Regulation 5

## Duties of a Designated Person

### Why

- To administer the appeal process quickly and fairly
- To define the role and responsibilities of the person designated to hear the appeal, and the process that the designated person must follow

### What it means

- The designated person plans and conducts the appeal according to the directions in the shaded box.
- The designated person hears the appeal quickly.
- The designated person has the same powers as a judge; he or she can:
  - require witnesses to attend the appeal, and
  - require that any and all relevant information and materials are produced and examined at the appeal.

## 6

Where notice of an appeal has been given under paragraph 22(1)(b) of the Act, and the appellant fails to appear, a designate may hear the appeal in the appellant's absence.

Regulation 6

## Failure to Appear at an Appeal

### Why

- To ensure the appeal is heard in a timely manner
- To resolve the appeal so that parents can return their children to the program or make other arrangements for child care

### What it means

- If the person who filed the appeal (the appellant) does not attend the appeal, the designated person may hear the appeal without them.

## 7(1)

Subject to subsection (2) an appeal heard under the Act is open to the public.

Regulation 7(1)

## Public Appeals

### Why

- To create an open and transparent appeal process

## 7(2)

A designate may exclude the public from an appeal hearing or a portion of an appeal hearing where:

- (a) the appellant has requested that the public be excluded; and
- (b) in the opinion of the designate, such an exclusion is in the general public interest.

Regulation 7(2)

## Exclusion of the Public

### Why

- To protect the general public interest if the appellant provides reasons why the public should not be allowed to attend an appeal hearing

### What it means

- After hearing the reasons why the appellant does not want the public to attend the appeal hearing, and after considering the general public interest, the designate person will decide whether or not the public will be allowed to attend the appeal hearing.

### **7(3)**

Where a designate is satisfied that a person has a substantial and direct interest in an appeal, the designated person shall allow the person to give evidence relevant to his or her interest.

#### Regulation 7(3)

### **Who Can Give Evidence**

#### **Why**

- To hear any and all information that will assist in determining the final decision of the appeal

#### **What it means**

- The designated person must allow people with a substantial or direct interest in the appeal to give evidence at the appeal hearing.

#### **How**

- All evidence should be clear, concise and relevant.
- Answer all the designated person's questions and provide all information requested.
- Consider asking an advocate, or even legal counsel (a lawyer) to attend the appeal with you, and if necessary, speak on your behalf. (Note: If you hire a lawyer you will be responsible for any legal fees and costs.)

**Act 23**

(1) Within 15 days after the hearing an appeal, a designated person may

- (a) on an appeal of a refusal of a license, confirm the decision or direct the Director to issue the license in accordance with the regulations; or
- (b) on an appeal of a suspension or revocation of a license, confirm, vary or squash the decision and direct the Director accordingly.

(2) The designated person shall notify, in writing, the appellant and the Director of his or her decision and specify reasons for the decision.

The Act, Section 23

**Appeal Decision****Why**

- To ensure a decision is made quickly and the appellant and Director are notified
- If the Director's decision is not confirmed, to tell the Director what to do

**What it means**

- After reviewing the evidence presented at the appeal the designated person:
  - either agrees with the Director's decision to deny, suspend or revoke a license, or
  - tells the Director to issue the license, or
  - tells the Director what other action to take.

## 24

(1) The appellant or the Director may appeal the decision of the designated person to the Minister.

(2) An appellant or the Director may, within 30 days after the receipt of the decision of a designated person, file with the Minister a notice of appeal and state in the notice the reasons for the appeal.

## 25

Where a notice of appeal is filed under section 24, the designated person shall, without delay, transmit to the Minister the appeal file.

## 26

(1) Within 14 days after the receipt of the appeal file, the Minister may confirm, vary or quash the decision of the designated person and direct the Director accordingly.

(2) The Minister shall give notice of the decision under subsection (1), in writing, to the appellant and the Director.

(3) The decision of the Minister is final.

The Act, Sections 24 to 26

## Appealing the Appeal Decision

### Why

- To ensure that there is a follow-up process if the appellant or Director feels there are good reasons why the decision of the designated person should be overturned or changed

### What it means

- If the appellant or Director has reasons why the designated person's decision should be overturned or changed he or she may file a written notice of appeal with the Minister of Education within 30 days. The notice must include the reasons why the appellant or Director thinks the decision should be overturned or changed.
- The designated person must give the appeal file to the Minister, without delay.
- The Minister will review the appeal file and, within 14 days, either support, change or reject the designated person's decision. The Minister will then give direction to the Director.
- The Minister will give written notice of the decision to both the appellant and the Director.
- The Minister's decision is final.