
**Early Learning & Human Services
Committee**

HB 1957

Brief Description: Establishing community appeals boards that review licensing decisions of the department of early learning.

Sponsors: Representatives Dent, Appleton, Johnson, Kagi, Jenkin, Manweller, Senn, Chandler, Griffey and Klippert.

Brief Summary of Bill

- Creates community appeals boards for the purpose of resolving adverse licensing and application decisions made by the Department of Early Learning.

Hearing Date: 2/14/17

Staff: Luke Wickham (786-7146).

Background:

Department of Early Learning Licensing.

The Department of Early Learning (DEL) has authority to set the standards for child care licensing or certification. The licensing standards must provide minimum requirements for health and safety, address quality, consider the different needs of family care providers and child care centers, and promote the continued safety of child care settings. Child day care centers that provide early childhood education and early learning services outside a child's home for a period of less than 24 hours must be licensed by the DEL. Family day care providers must also be licensed by the DEL. Some categories of child care providers are exempt from the DEL licensing requirement including certain relatives and persons who care for the child of a friend or neighbor where the person does not conduct child care activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, among other exempt groups.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The DEL may deny, suspend, revoke, modify, or not renew a license when a licensee or applicant has failed or refused to comply with its rules. The DEL may impose civil monetary penalties upon proof that an agency has failed or refused to comply with the DEL rules or if an individual is operating without a license. Civil monetary penalties cannot exceed \$150 per violation for child day care centers. Instead of an enforcement action, the DEL may place a child day care center on nonreferral status. Unless specified otherwise, an adverse licensing decision is made effective 28 days after the licensee receives the notice. The DEL may make the effective date of a licensing enforcement action sooner than 28 days if necessary to protect the public health, safety, or welfare of the child.

Appealing Department of Early Learning Licensing Decisions.

A license applicant or licensee who disagrees with the DEL's adverse licensing action has the right to an adjudicative proceeding governed by the provisions of the Administrative Procedure Act (APA). The APA establishes the procedures for state agency rulemaking and other administrative proceedings. Under the APA, individuals may appeal an agency action and must exhaust all available administrative remedies prior to filing a petition for judicial review. Administrative review allows the parties the opportunity to create a record of relevant facts and issues in dispute.

After the DEL makes an adverse licensing decision, the DEL mails an initial order to the affected individual. The affected individual has 28 days from the date of mailing to request a review within a certain time period. A DEL decision will be upheld if it is supported by a preponderance of the evidence. A challenge to a DEL adverse licensing decision will be heard by an Administrative Law Judge (ALJ) employed by the Office of the Administrative Hearings.

If a party disagrees with a final order issued by an ALJ and wants the decision reconsidered, the party may ask the review judge to reconsider the final order because the party believes the review judge made a mistake. The review judge must receive the request for reconsideration on or before the tenth calendar day after the final order was mailed by the ALJ. After an ALJ receives a reconsideration request, the ALJ must, within 20 days, either: (1) dispose of the petition, or (2) send all parties a written notice setting a review date. If an ALJ does not dispose of the petition or set a hearing date within 20 days, the request for reconsideration is denied.

Any party, except the DEL, may appeal a final order to a superior court.

Summary of Bill:

The Early Learning Advisory Council must establish community appeals boards for the purpose of resolving adverse licensing and application decisions made by the DEL. There must be at least one community appeals board for each regional DEL licensing office in the state.

Community appeals boards are five-member boards including three licensed child care providers, one representative of a local child care advocacy organization, and one department licensor. A licensee or applicant must give notice to the DEL of his or her request to engage in the community appeals board process within the time frame required for appealing an adverse licensing action pursuant to the APA. A majority of each community appeals board constitutes a quorum for transacting official business of the board. The board shall make findings of fact and prepare a written decision in each case and such findings and decisions shall be effective upon

being signed by a majority of the members of the community appeals board. Any finding of the community appeals board must be immediately delivered to the DEL and the individual involved in the case.

If the licensee or applicant chooses to appeal a denial, modification, suspension, or revocation of a license after completing the community appeals board process, the licensee or applicant has the same amount of time that was required for appeal after the final agency decision.

The community appeals board members may receive travel reimbursement from the DEL. The DEL must contract with a separate organization or persons for the appropriate staffing of the community appeals boards.

Appropriation: None.

Fiscal Note: Requested on February 7, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.