

10A NCAC 09 .2215 DENIAL OF A LICENSE

(a) The Secretary may deny an application for a child care facility license or the issuance of any permit to operate a child care facility under the following circumstances:

- (1) if the applicant owned or operated a licensed child care facility that was issued a denial, revocation, or summary suspension by the Division;
- (2) if the applicant owned or operated a licensed child care facility against which the Division initiated denial, revocation, or summary suspension proceedings and the applicant voluntarily relinquished the license prior to the issuance of a final action;
- (3) during the pendency of an appeal of a denial, revocation, or summary suspension of any other licensed child care facility license owned or operated by the applicant;
- (4) if the applicant owned or operated a facility that received a sanction for fraudulent misrepresentation pursuant to 10A NCAC 10 .0308 of the Subsidized Child Care Rules;
- (5) if the applicant owned or operated a facility that was issued a Notice of Termination and Disqualification by the Child and Adult Care Food Program (CACFP);
- (6) if the Division determines that the applicant has a relationship with an operator or former operator who owned or operated a regulated child care facility as described in Subparagraphs (1) through (5) of this Paragraph. As used in this Rule, an applicant has a relationship with a former operator if the former owner or operator would be involved with the applicant's child care facility in one or more of the following ways:
 - (A) would participate in the administration or operation of the facility;
 - (B) has a financial interest in the operation of the facility, as evidenced by, among other things, a familial relationship with the former owner or operator, employment at the new facility, and ownership of the building or property where the facility is located; or entering into a lease for the building;
 - (C) provides care to children at the facility, even as a volunteer;
 - (D) resides in the facility;
 - (E) has an ownership interest in the facility as defined in 10A NCAC 09 .0102(33); or
 - (F) would serve on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;
- (7) based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110, Article 7, 10A NCAC 10, or this Chapter;
- (8) based on the operator's non-compliance with the requirements of G.S. 110, Article 7, 10A NCAC 10, or this Chapter, during a temporary licensure period;
- (9) if abuse or neglect or child maltreatment has been substantiated against the applicant pursuant to G.S. 7B-101 or G.S. 110-105.5; or
- (10) if the applicant is a disqualified child care provider or has a disqualified household member residing in the child care facility pursuant to G.S. 110-90.2.

(b) In determining whether denial of the application for a license is warranted pursuant to Paragraph (a) of this Rule, the Division shall consider:

- (1) any documentation provided by the applicant that describes the steps the applicant will take to prevent reoccurrence of noncompliance with the requirements of G.S. 110, Article 7, 10A NCAC 10, or this Chapter;
- (2) training certificates or original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;
- (3) proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;
- (4) documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; or
- (5) documentation explaining relationships with persons meeting the criteria listed in Subparagraph (a)(6) of this Rule.

(c) Operators who held a child care facility license or permit that was denied, revoked, subject to a cease operation order, or summarily suspended within the past five years shall be ineligible to apply for a new child care license.

History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91; 110-92; 110-93; 110-99;
Eff. October 1, 2017.