

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 12:</b> Foster Family Home Licensing	<b>Effective Date:</b> July 1, 2021
	<b>Section 18:</b> License Denials	<b>Version:</b> 8

## POLICY OVERVIEW

When an applicant for a foster family home license has failed to meet the foster care licensing requirements as set out in Indiana Code (IC) or Indiana Administrative Code (IAC), and/or is unable to ensure the safety and well-being of a child, denial of the foster family home initial or relicensure application may be recommended.

## PROCEDURE

The Indiana Department of Child Services (DCS) and licensing workers should not recommend licensing a foster family home if there are any concerns about placing a child with the family. The licensing worker will recommend denial of a foster family home initial or relicensure application if:

1. The applicant or the applicant's household members, employees, or volunteers who are required to have background checks do not pass the background checks (see policies 13.09 Conducting Background Checks for Foster Home Licensing and 13.10 Evaluating Background Checks for Foster Family Licensing); or
2. The applicant made false statements on the application or the records required for licensure or relicensure.

If a denial is based on a report of CA/N that was substantiated prior to October 15, 2006, the Regional Manager (RM) or designee must review the appropriateness of the substantiation prior to the licensing worker requesting the denial. The applicant may also request this review at any time in the process (see policy 2.03 Child Care Worker Assessment Review Process).

DCS will not allow an applicant to voluntarily withdraw or transfer their foster home license application to another licensing entity once a denial recommendation has been made.

The licensing worker should consult with other DCS staff or Licensed Child Placing Agency (LCPA) staff as needed to arrive at a written recommendation about the appropriateness of granting the license based on:

1. Information found in all background checks (see policy 13.10 Evaluating Background Checks for Foster Family Licensing); and

**Note:** A denial recommendation may be made upon receipt of information supporting a denial.

2. Any other information obtained through the state-approved foster family home licensing study related to:
  - a. The current home environment, and
  - b. The ability of the prospective foster parent to provide for the child's safety, well-being, and permanency.

**Note:** A complete written home study is not required if a denial is recommended. However, the license must not be denied due to a disability and reasonable accommodations should be made.

For all denials, the licensing worker will:

1. Develop a denial recommendation letter, within 90 days of the decision to deny, containing the following:
  - a. Any specific statute or rule with which the foster family home is not in compliance,
  - b. A general description of the circumstances which constitute the non-compliance or other grounds for denial, and
  - c. Documentation supporting the decision.
2. Ensure each denial recommendation letter is signed by the following individuals:
  - a. The RM, Regional Foster Care Specialist (RFCS) Supervisor, and the DCS licensing worker (for DCS Licensed Foster Family Homes), or
  - b. LCPA licensing worker, LCPA Director, or designee (for LCPA Licensed Foster Family Homes).
3. Upload the following information into the case management system:
  - a. Denial recommendation letter,
  - b. Supporting documentation that provides evidence of non-compliance (e.g., case management system contact notes, e-mail communications, background check information, and assessment information),
  - c. The Foster Home Revocation or Denial Due Process Verification form if the denial is based on substantiated CA/N.
4. Submit the denial request in the case management system to the Central Office Foster Care Licensing Unit for approval;
5. Ensure the applicant is aware of the denial recommendation and has a basic understanding of the process that will occur; and
6. Ensure any DCS or agency staff responsible for placement of a child is notified of the concerns and recommendation to deny the renewal of the license if there are children currently placed in the home.

Upon receipt and **agreement** with the recommendation to deny, the Central Office Foster Care Licensing Unit will:

1. Send a certified letter, within 60 days of the recommendation, to the applicant advising the individual of:
  - a. The application for a new foster family home license or renewal of the current license is being denied, effective 30 days from receipt of the letter,
  - b. The nature of the allegations of non-compliance with IC, IAC, or other foster family home requirements,
  - c. The right to appeal the decision within 30 calendar days of receipt of the letter (see Relevant Information),
  - d. The statutory authority of DCS to license resource family homes, and
  - e. The civil and criminal penalties for operating a foster family home without a license.
2. Send a copy of the certified letter denying the license to the licensing worker for the case file.

If Central Office disagrees with the recommendation to deny a license, the Central Office Licensing Unit will return the recommendation to the recommending agency with guidance on next steps. The recommending agency will follow up based upon the guidance received from DCS Central Office.

If the denial is based on a substantiated report of CA/N that was approved prior to October 15, 2006, the RM (or designee) for the region where the assessment took place will, prior to sending the request for denial to Central Office, complete a file review of the substantiated assessment.

If the foster family appeals the license denial and requests an Administrative Appeal Hearing as provided in IC 31-27-4-13 and 465 IAC 3-3 (also see Indiana Office of Administrative Law Proceedings (OALP) Policies):

1. DCS Hearings and Appeals will review the Request for Administrative Hearing Foster Home License Denial or Revocation and the denial letter and forward any complete and timely requests to OALP;
2. An Administrative Law Judge (ALJ) (also sometimes referred to as Administrative Hearing Officer) assigned by the OALP will schedule the hearing date and any prehearing conferences;
3. The OALP staff will notify the assigned DCS attorney, the foster family home, and any attorney representing the license applicant for purposes of the appeal, of the date, time, and location of the scheduled hearing;
4. A DCS attorney will represent DCS during the hearing;
5. After the ALJ issues the Proposed Finding of Fact and Conclusions of Law, the DCS Final Agency Authority (FAA) will automatically conduct Final Agency Review of the case and the ALJ's Proposed Finding of Fact and Conclusions of Law and issue a decision upholding, denying, or remanding the decision to deny the application for foster home license. The DCS FAA shall utilize their experience and training in the relevant subject matter when conducting their review; and

**Note:** The DCS FAA may schedule status conferences or briefing deadlines during the review, however, failure to attend these status conferences or respond to briefing deadlines will not result a dismissal of the case or a failure of the FAA to issue a decision on the case.

6. OALP and the parties will be notified of the decision, including any right to seek judicial review, as provided in IC 4-21.5-5.

#### LEGAL REFERENCES

- [IC 31-27-4-5: Apply for licenses; criminal history checks](#)
- [IC 31-27-4-6: Grounds for denial of license applications; waiver](#)
- [IC 31-27-4-13: Denial of license; notice; administrative hearing upon written request](#)
- [IC 31-27-4-16: Duration of license; limitations; renewal](#)
- [IC 4-21.5-5Chapter 5. Judicial Review](#)
- [465 IAC 2-1.5: Licensing of Foster Family Homes for Children](#)
- [465 IAC 3-2-2: Administrative review procedure for child care workers and licensed foster parents](#)
- [465 IAC 3-3: Administrative Hearings](#)
- [42 USC 12102: Definition of disability](#)

## RELEVANT INFORMATION

### Definitions

#### Administrative Hearing Officer

Administrative Hearing Officer refers to as an individual who presides over an administrative hearing. An Administrative Hearing Officer is also commonly referred to as an ALJ.

#### Final Agency Action

Final agency action means, with respect to an administrative action taken by the department, the issuance of an order by the ultimate authority of the department that:

1. Disposes of all issues for all parties to an administrative proceeding regarding the action after the parties to the administrative proceeding have exhausted all administrative remedies concerning the action; and
2. Is designated as a final order by the ultimate authority of the department.

#### Final Agency Authority (FAA)

For purposes of an administrative proceeding regarding an action taken by DCS, the director or the director's designee is the FAA (referred to in Indiana Code as the ultimate authority) of DCS. A designee of the director must be:

1. A Deputy Director of DCS; or
2. An individual who:
  - a. Is an attorney in good standing who is admitted to the practice of law in Indiana; and
  - b. Is an employee of DCS, except as otherwise allowed under state and federal law.

#### Licensing Worker

A licensing worker refers to the DCS RFCS or the LCPA worker.

### Forms and Tools

- [Foster Home License Revocation or Denial Due Process Verification \(SF 55232\)](#)
- [Indiana Administrative Code](#)
- [Indiana Statute](#)
- [Request for Administrative Hearing Foster Home License Denial or Revocation \(SF 55227\)](#)

### Related Policies

- [2.03 Child Care Worker Assessment Review Process](#)
- [13.09 Conducting Background Checks for Foster Home Licensing](#)
- [13.10 Evaluating Background Checks for Foster Family Licensing](#)