

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Create an Appeals Process for Child Care Providers

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004-G, sub-§14-I is enacted to read:

14-I.

Human Services

Child Care Appeal
Review Panel

Expenses Only

22 MRSA §8359

Sec. 2. 22 MRSA c. 1674-A is enacted to read:

CHAPTER 1674-A

CHILD CARE APPEAL REVIEW PANEL

§ 8359. Child Care Appeal Review Panel

The Child Care Appeal Review Panel, established by Title 5, section 12004-G, subsection 14-I, referred to in this chapter as "the review panel," shall review disputes between a child care facility, a family child care provider or a nursery school, as those terms are defined in section 8301-A, and collectively referred to in this chapter as "the facility," and the department relating to compliance with licensing or certification, complaints and disputes but not investigations of out-of-home child abuse and neglect.

1. Membership. The review panel has 10 voting members appointed by the Governor as follows:

- A. Three early childhood professionals;
- B. One pediatric health care professional;
- C. One parent of a child in a licensed child care facility or certified family child care provider; and
- D. Five members representing a range of facilities from different geographic areas of the State.

The director of the division of licensing and regulatory services or the director's designee shall chair the review panel and act as a nonvoting member.

2. Legal counsel. The review panel receives legal counsel from the Office of the Attorney General.

3. Terms. Members of the review panel are appointed for 5-year terms. A member of the review panel appointed to fill a vacancy occurring otherwise than by expiration of a term is appointed only for the unexpired term of the member succeeded.

4. Duties. The review panel shall review disputes between the department and a facility. The review panel shall review the records, conduct any interviews or inspections considered necessary, make a determination regarding findings of fault and, if necessary, determine appropriate action by the department or the facility. Disputes subject to appeal include the following:

- A. Revocation or suspension of a license or certification to operate a facility;
- B. Denial of an application for a license or certification to operate a facility;
- C. Conversion of a license or certification from regular to conditional status;
- D. Disputes between facilities and the department concerning compliance with rules; and
- E. Denials of alternative compliance requests.

5. Timely review of disputes. A facility that is aggrieved by a decision by the department related to a dispute subject to the review panel must file a request for the review panel to review the dispute within 30 days of receiving the decision by the department. The review panel shall schedule an initial meeting to review the dispute within 14 days of a request by a facility. A final decision on the dispute must be made no more than 30 days after the request for review has been filed with the review panel. Any review conducted by the review panel must be in accordance with Title 5, chapter 375, subchapter 7.

6. Authority. The department and the facility shall act according to the final decision by the review panel.

Sec. 3. Staggered terms of Child Care Appeal Review Panel. Notwithstanding the Maine Revised Statutes, Title 22, section 8359, subsection 3, of the 10 members first appointed by the Governor to the Child Care Appeal Review Panel pursuant to Title 22, section 8359, subsection 3, the Governor shall designate one member whose term is one year, one member whose term is 2 years, one member whose term is 3 years and one member whose term is 4 years. The balance of members serve for 5 years.

SUMMARY

This bill establishes the Child Care Appeal Review Panel to review disputes related to the licensing and certification of child care facilities, family child care providers and nursery schools, including revocations, suspensions, denials, demotions to conditional status, rule compliance issues and denials of requests for alternative compliance methods but not including child abuse and neglect investigations. The review panel members are appointed by the Governor for 5-year terms. The director of the division of licensing and regulatory services within the Department of Health and Human Services is the chair of the panel but does not vote. The Office of the Attorney General provides legal counsel. The department and facility are required to abide by decisions made by the review panel.