

Summary Suspensions of Child Care Licenses - Hearings

This handout is to help you understand the procedure in summary suspension hearings.

In these hearings, the Department of Children, Youth and Families is typically represented by an Assistant Attorney General. The appellant (licensee) may be represented by its owner or anybody else, including an attorney – the one exception is that employees of DCYF may not represent the licensee.

There are two types of hearings:

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| <p>(1) Motion Hearing on Stay</p> <ul style="list-style-type: none">• If this motion is granted, it stops the license suspension from going into effect until a full hearing is held.• The licensee must request this special motion hearing.• Takes place quickly.• Usually no testimony, just documents and argument.• You'll receive a "Notice of Motion Hearing." | <p>(2) Hearing</p> <ul style="list-style-type: none">• Takes place soon after motion hearing on stay (if a stay hearing is requested).• Chance to offer testimony of witnesses.• Chance to cross-examine witnesses from other party.• You may also file documents.• You'll receive a "Notice of Hearing." |
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If you have received a "Notice of Motion Hearing"

- If you are not ready for the motion hearing or there is a scheduling conflict, you may request to reschedule ("continue") the motion hearing. Washington Administrative Code 10-03-250 explains how to ask for a continuance. The first step is to ask the other party if they will agree. If the motion hearing is rescheduled, the summary suspension will remain in effect until then.
- Unless the administrative law judge explicitly orders oral testimony, the only evidence that an administrative law judge considers at the motion hearing are affidavits and declarations made under penalty of perjury.
 - A declaration does not need to be notarized. The key requirement is that the statement be made under penalty of perjury. For example, you could start a declaration by stating, "The following statement is made under the penalty of perjury" and then sign the statement at the end. By doing so, you are affirming that what you say is accurate.
 - You may attach documents to a declaration, but the declarant must make a statement declaring the documents' authenticity under penalty of perjury. For example, a declarant could write, "I declare under the penalty of perjury that attached to this declaration are true and correct copies of the following documents," and then list the documents and sign at the end of the list.

- Deadlines for filing affidavits and declarations with OAH:
 - Appellant (licensee): At least seven calendar days before the hearing, by noon, with a copy to OAH and to the Attorney General's Office.
 - Department of Children, Youth and Families: At least one business day before the hearing, at noon, with a copy to OAH and the appellant's representative.
- During the motion hearing:
 - Testimony will not be permitted at the motion hearing except when requested in advance and ordered by an administrative law judge. Please see Washington Administrative Code [\(WAC\) 110 03-0290\(6\)](#) for details.
 - It is the appellant's (licensee's) burden (responsibility) to show that the license suspension should be stayed while waiting for a full hearing. [WAC 110-03-0290\(8\)](#) describes what the licensee must show. Please read that part of the rule carefully. Those factors will be discussed at the motion hearing.
 - You may make an oral argument at the time of the motion hearing, but that argument should be based on what the documents show (unless the administrative law judge has ordered that testimony is allowed).
- For more details: Read the applicable rule – [WAC 110-03-0290](#). A copy is attached to this handout.