

10A NCAC 63C .0203 SUSPENSION OR TERMINATION OF LICENSE AND REMOVAL FROM BUSINESS ENTERPRISES FACILITY

(a) The Division may suspend or terminate the license of an operator, after affording the operator an opportunity to appeal the decision as set forth in Section .0400.

(b) Licenses to licensees and operators shall be terminated if the licensee or operator:

- (1) no longer meets the definition of legally blind pursuant to Rule .0101 of this Subchapter;
- (2) withdraws from the program and sends written notification to the Division;
- (3) is convicted of a misdemeanor involving crimes of dishonesty or any felony;
- (4) provides false information to the Division pertaining to eligibility requirements set forth pursuant to Rule .0202 of this Subchapter;
- (5) unlawfully possesses firearms or lethal weapons on the job;
- (6) uses Business Enterprises equipment purchased with program funds or a Business Enterprises facility to operate another business; or
- (7) if an operator's license is suspended 3 times within a consecutive 24-month period in accordance with Paragraph (c) of this Rule, regardless of the reason for suspension.

(c) Licenses to operators shall be suspended if the operator:

- (1) fails to operate the Business Enterprises facility in accordance with the operator agreement for three or more consecutive months;
- (2) commits willful acts in the Business Enterprises facility or on the grounds of the facility to create a threat to the health and safety of facility staff, customers or the general public;
- (3) reports to a Business Enterprises facility under the influence of alcohol or any controlled substance or partakes of such on the job. This shall not include unanticipated effects from the ingestion of prescription medications taken in accordance with the directions of a doctor;
- (4) fails to personally operate the awarded facility, as set forth in the operator agreement, unless prior written approval to operate the facility in another manner has been obtained from the Division. This requirement shall not mandate the physical presence of the operator at the facility at all times of its operation;
- (5) fails three times during the calendar year to pay set-aside and liability fees and health insurance premiums and phone bills, if applicable, to the Controller's Office by the 15th day of the month following the month in which the business was transacted;
- (6) fails to preserve financial and other records pertaining to the operation of the Business Enterprises facility as required by Rule .0601(a)(8) of this Subchapter;
- (7) fails to respond to requests made by an auditing authority conducting audits pursuant to State or federal law, as required by this Subchapter;
- (8) fails to maintain liability and workers compensation insurance coverage as required by law and by Rule .0607 of this Subchapter;
- (9) removes Business Enterprises equipment purchased with program funds from the facility without written authorization from the Division;
- (10) fails to comply with federal or State law prohibiting discrimination in hiring and service to customers;
- (11) fails to comply with federal or State tax laws for individuals who are self-employed if this violation relates to the Business Enterprises facility. This suspension shall only occur if there has been a final adjudication of the violation by State and federal authorities; or
- (12) fails to comply with the operator's responsibilities as required by Rule .0601 of this Subchapter.

(d) Prior to the suspension of an operator's license, the Division shall provide the operator with a written corrective action plan. The Division and the operator shall both sign the corrective action plan. The corrective action plan shall include:

- (1) the specific provision in Paragraph (c) of this Rule that the operator has violated, the specific provision contained in the operator's agreement that has been violated, or the specific provision otherwise contained in this Subchapter that has not been complied with;
- (2) the specific corrective actions that the operator must take to cure the violation identified in Subparagraph (d)(1) of this Rule, including participation in training or receipt of technical assistance provided by the Division, if necessary; and
- (3) the time frame in which the operator must cure the violation, which shall not exceed 90 days. The time frame in which to cure the violation may be extended if actions are being taken to resolve the violations pursuant to a written agreement between the operator and Division.

(e) If an operator fails to complete the corrective action plan to cure the violation within the time set forth in the corrective action plan, or otherwise refuses to sign a corrective action plan, the Division shall suspend the license of the operator. The length of a suspension shall not exceed 60 days.

(f) During the time period in which an operator's license is suspended, the Division shall identify another operator to assume responsibility for the locations of the suspended operator.

*History Note: Authority G.S. 111-27; 111-27.1; 34 C.F.R. 395.3; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107;
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