

California Code of Regulations Currentness _Title 22. Social Security _Division 12. Child Care Facility Licensing Regulations _Chapter 1. Child Care Center General Licensing Requirements _Article 1. General Requirements and Definitions

22 CCR § 101151

§ 101151. General.

(a) The general regulations in this chapter shall apply to all child care centers regulated by Division 12, except where specifically exempted. Additional or special requirements found in the corresponding subchapters pertaining to each category shall apply only to such individual child care center categories.

(b) The licensee shall ensure compliance with all applicable laws and regulations.

22 CCR § 101152

Orange
& Yellow § 101152. Definitions.

The following general definitions shall apply wherever the terms are used throughout Division 12, Chapter 1, except where specifically noted otherwise. Any additional definitions found at the beginning of any subchapter in this chapter shall apply only to such specific child care center category.

(a)(1) “Administrator” means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.

(2) “Adult” means a person who is 18 years of age or older.

(3) “Applicant” means any adult, general partner(s) of a partnership, corporation, county, city, public agency or other governmental entity that has applied for a child care center license.

(4) “Assistant Infant Care Center Director” (“Assistant Director”) means the individual as specified in Section 101415.1 designated by the child care center director to act in his or her behalf in the overall management of an infant care center.

(5) “Authorized Representative” means any person or entity authorized by law to act on behalf of any child. Such person or entity may include but not be limited to a minor’s parent, a legal guardian, a conservator or a public placement agency.

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(b)(1) “Basic Services” means those services required by applicable laws and regulations to be provided by the licensee in order to obtain and maintain a child care center license.

(c)(1) “California Clearance” means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(2) “Capacity” means the maximum number of children authorized to be provided care and supervision at any one time in any licensed child care center.

(3) “Care and Supervision” means any one or more of the following activities provided by a person or child care center to meet the needs of children in care:

(A) Assistance in diapering, toileting, dressing, grooming, bathing and other personal hygiene.

(B) Assistance with taking medications as specified in Sections 101226(e)(3) and (e)(4).

(C) Storing and/or distribution of medications as specified in Section 101226(e).

(D) Arrangement of and assistance with medical and dental care.

(E) Maintenance of rules for the protection of children.

(F) Supervision of children’s schedules and activities for the protection of children.

(G) Monitoring food intake or special diets.

(H) Providing basic services as defined in Section 101152.b.(1).

(4) “Child” means a person under 18 years of age who is being provided care and supervision in a child care center, except where specified otherwise.

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(5) "Child Abuse Central Index" means the California Department of Justice maintained statewide, multi-jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.

(6) "Child Abuse Central Index Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match or the search resulted in a match but the California Department of Social Services determined after an investigation that the allegation of child abuse or neglect was not substantiated.

(7) "Child Care Center" or "Day Care Center" (or "center") means any child care facility of any capacity, other than a family child care home as defined in Section 102352f.(1), in which less than 24-hour per day non-medical care and supervision are provided to children in a group setting. The term "Child Care Center" supersedes the term "Day Care Center" as used in previous regulations.

(8) "Child Care Center Director" or "Day Care Center Director" means the administrator of a child care center. The term "Child Care Center Director" supersedes the term "Day Care Center Director" as used in previous regulations.

(A) The term "head teacher" is an acceptable substitute for the term "child care center director" provided that the head teacher meets the qualifications of a child care center director and there is written delegation of responsibilities as specified in Section 101215.1(c)(1).

(9) "Child Care Facility" or "Child Day Care Facility" (or "facility") means any place or building in which less than 24-hour per day nonmedical care and supervision, as defined in Section 101152c.(2), are provided to children in a group setting. The term "Child Care Facility" supersedes the term "Child Day Care Facility" as used in previous regulations.

(10) "Combination Center" means any combination of child care center, infant center, school-age child care center, and child care center for mildly ill children that is owned and operated by one licensee at a common address.

(11) "Completed Application" means:

(A) The applicant has submitted and the Department has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; and a criminal record clearance on the applicant and any other individuals specified in Section 101170.

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(B) The Department has completed a site visit to the child care center.

(12) "Control of Property" means the right to enter, occupy and maintain the operation of the child care center property within regulatory requirements. Evidence of control of property may include, but is not limited to, the following:

(13) "Conviction" means:

(A) A criminal conviction in California; or

(B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.

(14) "Criminal Record Clearance" means an individual has a California Department of Justice clearance and an FBI clearance.

(A) a Grant Deed showing ownership; or

(B) the lease agreement or rental agreement; or

(C) a court order or similar document that shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

(d)(1) "Deficiency" means any failure to comply with any provision of the California Child Day Care Act (Health and Safety Code, section 1596.70, et seq.) and/or regulations adopted by the Department pursuant to the Act.

(2) "Department" means the California Department of Social Services (CDSS) or any state, county or other public agency authorized by CDSS to assume specified licensing responsibilities pursuant to Health and Safety Code Sections 1596.77 and 1596.82. The term "Department" supersedes the term "Licensing Agency" as used in previous regulations.

(3) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

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(4) “Director” means the director of the California Department of Social Services.

(e)(1) “Emergency Approval to Operate” (EAO) (LIC 9117 [4/93]) means a temporary approval to operate a facility for no more than

60 days pending the Department’s decision on whether to approve or deny a provisional license.

(2) “Emergency Substitute,” as described in Section 101216.3(h)(1), means a person at least 18 years of age.

(3) “Evaluator” means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license child care centers.

(4) “Evidence of Licensee’s Death” shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent’s mortuary or a letter from the attending physician or coroner’s office verifying the licensee’s death.

(5) “Exception” means a written authorization issued by the Department to use alternative means which meet the intent of a specific regulation and that are based on the unique needs or circumstances of a specific child or staff person. Exceptions are not transferable or applicable to other children, staff persons, child care centers or licensees.

(6) “Exemption” means an exception to the requirements of Health and Safety Code Section 1596.871 and applicable regulations. Exemptions are not transferable.

(7) “Existing Child Care Center” means any child care center operating under a valid, unexpired license on the date this chapter becomes effective.

(f)(1) “Federal Bureau of Investigation (FBI) Clearance” means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

(g)(1) “Guardian” means any person appointed by the Superior Court, or court of competent jurisdiction, to care for the person, or estate, or the person and estate of another, as the legal guardian pursuant to law.

(h) (Reserved)

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(i)(1) "Infant" means a child under two years of age.

(2) "Infant Care Center" means any child care center or part of a child care center of any capacity where less than 24-hour per day nonmedical care and supervision are provided to infants in a group setting.

(3) "Infant Care Center Director" means the administrator of an infant care center as specified in section 101415.

(4) "Infant Care Teacher" means a teacher as specified in section 101416.2.

(j) (Reserved)

(k) (Reserved)

(l)(1) "License" means a written authorization by the Department to operate a child care center and to provide care and supervision. A license is not transferable.

(2) "Licensee" means the adult, general partner(s) of a partnership, controlling partners in a limited liability corporation, corporation, county, city, public agency or other governmental entity having the authority and responsibility to operate a licensed child care center.

(3) "Licensing Agency" - See "Department" as specified in Section 101152d.(2). The term "Department" supersedes the term "Licensing Agency" as used in previous regulations.

(m)(1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

(2) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition), published by the American Psychiatric Association, and a degree of functional impairment that renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act (commencing with Section 5000 of the Welfare and Institutions Code).

(n)(1) "Nonambulatory Person" is defined in Health and Safety Code Section 13131.

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(A) A person who uses supportive restraints as specified in Section 101223.1 is deemed nonambulatory.

(B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

(o) (Reserved)

(p)(1) "Physician" means a person licensed as a physician and surgeon by the Medical Board of California or the Osteopathic Medical Board of California.

(2) "Preschool-age child" means a child as defined in Health and Safety Code Section 1597.059.

(3) "Provide" or "Provision" means to make available any service or personnel to meet licensing or other requirements.

(4) "Provisional License" means a temporary license issued in accordance with the criteria specified in Section 101181.

(q)(1) "Qualified Teacher Substitute" means a person at least 18 years of age with at least six postsecondary semester or equivalent quarter units in early childhood education or child development.

(r)(1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.

(2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, nephew, niece, first cousin or any such person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition even after the marriage has been terminated by death or dissolution.

(s)(1) "School-Age Child" means any child who meets one of the following:

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(A) Has entered the first grade or above;

(B) Is in a child care program providing care and supervision exclusively to children enrolled in kindergarten and above.

(2) "School-Age Child Care Center" means any child care center or part of a child care center of any capacity where less than 24-hour per day nonmedical care and supervision are provided to school-age children in a group setting.

(3) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the children in a child care center.

(4) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Section 1596.871(c)(3), if the individual's criminal history meets specific criteria established by Department regulation.

(5) "Substantial Compliance" means the absence of any serious deficiencies.

(t)(1) "Toddler Component" means the component of a preschool or infant care program designed for children between the ages of 18 months and 30 months.

(u)(1) "Urgent Need" means a situation where prohibiting the operation of the child care center would be detrimental to a child's physical health, mental health, safety or welfare. Circumstances constituting urgent need include but are not limited to:

(A) A change in the location of the child care center when children are in need of services from the same operator at the new location.

(B) A change of ownership of the child care center when children are in need of services from a new operator.

(v) (Reserved)

(w)(1) "Waiver" means a nontransferable written authorization issued by the Department to use alternative means which meet the intent of a specific regulation and that are based on a facility-wide need or circumstance.

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(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

22 CCR § 101156

§ 101156. License Required.

(a) Unless a child care arrangement is exempt from licensure as specified in Section 101158, no adult, general partners of a partnership, controlling partners in a limited liability corporation, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or provide care and supervision as defined in Section 101152c.(2) without a valid license from the Department.

22 CCR § 101157

§ 101157. Operation Without a License.

(a) If an unlicensed child care center is providing care and supervision as defined in Section 101152c.(2), the center is in violation of Health and Safety Code Section 1596.80 unless exempted from licensure pursuant to Section 101158.

(b) If a child care center is alleged to be in violation of Health and Safety Code Section 1596.80, the Department shall conduct a site visit and/or evaluation of the center pursuant to Health and Safety Code section 1596.853.

(c) If a child care center is operating without a license, the Department shall issue a Notice of Operation in Violation of Law and shall refer the case for criminal prosecution and/or civil proceedings.

(d) The Department has the authority to issue an immediate civil penalty pursuant to Section 101198 and Health and Safety Code Section 1596.891.

(e) Sections 101157(c) and (d) shall be applied pursuant to Health and Safety Code Section 1596.892.

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22 CCR § 101158

§ 101158. Exemption from Licensure.

(a) As specified in Health and Safety Code Section 1596.792, the child care center regulations contained in this division shall not apply to any of the following:

(8) Public and private schools that operate a program before and/or after school for school-age children provided all of the following conditions are met:

(A) The program offered by a school must be operated by the school and run by qualified teachers employed by the school or the school district.

(B) An outside organization or individual using a public or private school site to operate a child care program is subject to licensure, even if the program is open only to the children enrolled at that school.

22 CCR § 101159

§ 101159. Licensing of Integral Facilities.

22 CCR § 101160

§ 101160. Posting of License.

(a) The license shall be posted in a prominent, publicly accessible location in the center.

22 CCR § 101161

§ 101161. Limitations on Capacity and Ambulatory Status.

(a) A licensee shall not operate a child care center beyond the conditions and limitations specified on the license, including the capacity limitation.

(b) Child care centers or rooms approved for ambulatory children only shall not be used by nonambulatory children.

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(1) Children whose condition becomes nonambulatory shall not use rooms or areas restricted to ambulatory children.

(2) The Department has the authority to require children who use ambulatory sections of the child care center to demonstrate that they are ambulatory.

22 CCR § 101162

§ 101162. Advertisements and License Number.

(a) No person or legal entity shall advertise or represent itself as a licensed child care center without first obtaining a current valid license from the Department.

(1) Licensees shall reveal each child care center license number in all advertisements in accordance with Health and Safety Code Section 1596.861.

(b) Correspondence is considered a form of advertisement only if the intent is to attract clients.

22 CCR § 101163

§ 101163. False Claims.

(a) No licensee, officer or employee of a licensee shall make or disseminate any false or misleading statement regarding the child care center or any of the services provided by the center.

(b) No licensee, officer or employee of a licensee shall alter a license, or disseminate an altered license.

22 CCR § 101167

§ 101167. Transfer and Sale.

(a) A license is not transferable.

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(1) If the sale of a licensed child care center will result in the issuance of a new license, the requirements of Health and Safety Code Section 1597.14 apply.

(2) In the event of the sale and transfer of property and business, the applicant (buyer) shall be issued an Emergency Approval to Operate (EAO) (LIC 9117 [4/93]) if the applicant (buyer) complies with Health and Safety Code Section 1597.14.

(3) The applicant (buyer) who is issued an EAO (LIC 9117 [4/93]) shall perform all the duties, functions and responsibilities required of a licensee.

(4) Failure to comply with licensing laws and regulations under this section, as determined by the Department, shall result in the denial of the application for a license. This denial shall also constitute termination of the EAO (LIC 9117 [4/93]).

(5) The Department shall provide to the applicant (buyer) written notification of the denial. This notice shall be effective immediately upon receipt.

(b) "A bona fide offer," as specified in Health and Safety Code Section 1597.14(a)(1), means a proposal by the buyer to purchase the child care center with definite terms in writing communicated to the seller and accompanied by a cash deposit.

22 CCR § 101168

§ 101168. Applicant Qualifications.

(a) Any adult may apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry.

22 CCR § 101169

§ 101169. Application for License.

(a) Any adult, partnership, corporation, county, city, public agency or other governmental entity wishing to obtain a license shall fill out and file with the Department an Application Booklet (LIC 281A [12/96]), as well as submit to the Department the documents specified in Section 101169(d) below.

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(1) Applicants for licensure of a combination center may file one application.

(A) Licensees requesting the addition of a toddler component to their preschool or infant care program shall submit an amended application consisting of an Application for a Child Day Care Center License (LIC 200A [12/92]); a program description; a sketch of the center showing where the toddler component will be located; a schedule for outdoor activities; and, if necessary, a fire clearance. The toddler component is considered an extension of the preschool or infant care license.

(2) Each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations as determined by the Department.

(3) The Department has the authority to issue one license to a single program, or to a separately licensed component of a single program, that is located in multiple buildings at a common address.

(b) Prior to filing an LIC 281A (12/96) and the documents specified in Section 101169(d) below, the applicant shall attend an orientation provided by the Department.

(1) The orientation shall cover, but not be limited to, the following areas:

(A) How to complete the application process.

(B) Scope of child care center operation subject to regulation by the Department.

(2) A licensee applying for another child care center license need not attend another orientation within two years of completing a previous orientation.

(3) An applicant applying for more than one child care center license is only required to attend one orientation.

(c) The applicant/licensee shall cooperate with the Department in providing verification and/or documentation as requested by the Department.

(d) The LIC 281A (12/96) and supporting documents shall together contain the following:

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(1) Name (or proposed name) and address of the child care center.

(2) Name, and residence and mailing addresses of applicant.

(A) If the applicant is a partnership, copies of the partnership agreement and all documents governing the partnership, as well as the name and principal business address of each partner.

(B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.

(C) If the applicant is a corporation that issues stock, the name and address of each person owning more than 10 percent of stock in the corporation.

(D) If the applicant is a corporation, a copy of the articles of incorporation, the constitution, the bylaws, and the board resolution authorizing the submission of the application.

(E) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of the directors, executive director or an officer.

(3) If the applicant is leasing or renting the premises of the child care center, a copy of the lease or rental agreement and the name, address and telephone number of the property owner.

(4) The category of child care center to be operated.

(5) Maximum number of children to be served.

(6) Age range and the categories of children to be served including, but not limited to, children with disabilities and/or nonambulatory children.

(7) Hours or periods of operation of the child care center.

(8) Name of administrator.

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(9) Information required by Health and Safety Code Section 1596.95(d).

(10) Information required by Health and Safety Code Section 1596.95(e).

(11) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's office with jurisdiction in the area where the child care center is located.

(12) A plan of operation as specified in Section 101173.

(13) Fingerprint cards as specified in Section 101170.

(14) Requests to check the Child Abuse Registry as required by Health and Safety Code Section 1596.877.

(15) A health-screening report on the applicant as specified in Section 101216(g).

(16) The processing fee for an application as specified in Section 101187.

(17) Water supply clearance as specified in Section 101172.

(18) Evidence that the applicant has posted signs at the entrance to the child care center that provide the telephone number of the local health department and information on child passenger restraint systems pursuant to Health and Safety Code Section 1596.95(g) and Vehicle Code Section 27360(b).

(A) The signs shall provide all of the following information:

1. Protect your child -it is the law.

2. Children under the age of four years, regardless of weight, or weighing less than 40 pounds, regardless of age, must be in an approved child passenger restraint system.

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3. You may be cited for a violation of the child passenger restraint system provisions. In addition, your automobile insurance rates could be adversely affected as a result.

4. Call your local health department for more information.

(19) Such other information as may be required pursuant to Health and Safety Code Section 1596.95(h).

(20) Evidence regarding the applicant's reputable and responsible character as required by Health and Safety Code Section 1596.95(b).

(e) The application shall be signed by the applicant.

(1) If the applicant is a partnership, the application shall be signed by each partner.

(2) If the applicant is a corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the authorized representative.

(f) The application shall be filed with the Department's office that serves the geographical area in which the child care center is located.

22 CCR § 101170

§ 101170. Criminal Record Clearance.

(a) The Department shall conduct a criminal record review of all persons specified in Health and Safety Code Section 1596.871(b). The Department has the authority to approve or deny a facility license, or employment, residence or presence in the facility, based on the results of this review.

(b) The following individuals are exempt from the requirement to submit fingerprints:

(1) A volunteer who is a relative, legal guardian, or foster parent of a child in the facility.

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(2) A volunteer that provides time-limited specialized services if all of the following apply:

(A) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(B) The volunteer spends no more than 16 hours per week at the facility.

(C) The volunteer is not left alone with children in care.

(3) A volunteer who is a senior citizen if all of the following apply:

(A) The senior citizen participates in a Foster Grandparent Program under the authority of the National Senior Service Corps and administered by the Corporation for National Service.

(B) The facility has an agreement with the foster grandparent program concerning the placement of the foster grandparent.

(C) The foster grandparent is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(D) The foster grandparent is not left alone with children in care.

(4) A student who is enrolled or participating at an accredited educational institution if all of the following apply:

(A) The student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(B) The facility has an agreement with the educational institution concerning the placement of the student.

(C) The student spends no more than 16 hours per week at the facility.

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(D) The student is not left alone with the children in care.

(5) A third-party repair person, or similar retained contractor, if all of the following apply:

(A) The individual is hired for a defined, time-limited job.

(B) The individual is not left alone with children.

(C) When children are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(6) A medical professional, as defined in Section 101152(m)(1), who holds a valid license or certification from the individual's governing California medical care regulatory entity if all of the following apply:

(A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.

(B) The individual is providing time-limited specialized clinical care or services.

(C) The individual is providing care or services within the individual's scope of practice.

(D) The individual is not a community care facility licensee and is not employed, retained, or contracted by the licensee.

(7) Employees of a licensed home health agency who have a contract with a child's parent or guardian and are in the facility at the request of that parent or guardian.

(A) The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.

(8) An attendant or facilitator for a child with a developmental disability who is visiting the child or providing direct care and supervision to the child.

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(A) The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.

(c) Prior to the Department issuing a license, the applicant and the administrator shall obtain a California criminal record clearance or exemption.

(d) All individuals subject to criminal record review shall, be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

(1) A person signing the LIC 508 must:

(A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 101170(k) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.

(B) If convicted of a crime other than a minor traffic violation as specified in Section 101170(k), provide information regarding the conviction.

(2) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with Section 101170(e)(1), prior to the individual's employment or initial presence in the child care facility.

(A) Fingerprints shall be submitted to the California Department of Justice by the licensee or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the California Department of Social Services.

(e) All individuals subject to a criminal record review pursuant to Health and Safety Code Section 1596.871 shall prior to working, residing or volunteering in a licensed facility:

(1) Obtain a California clearance or a criminal record exemption as required by the Department or

(2) Request a transfer of a criminal record clearance as specified in Section 101170(f) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 101170.1(r),

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unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

(f) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:

(1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).

(2) A copy of the individual's driver's license, or

(3) A valid identification card issued by the Department of Motor Vehicles, or

(4) A valid photo identification issued by another state or the United States government if the individual is not a California resident.

(5) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

(g)The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 101217.

(h) Violation of Section 101170(e) will result in a citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five (5) days by the Department.

(1) Subsequent violations within a twelve (12) month period will result in a civil penalty of one hundred dollars (\$100) per violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1596.99.

(i) Violation of Section 101170(e) may result in a denial of the license application or suspension and/or revocation of the license.

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(j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting.

(1) Documentation shall be available for inspection by the Department.

(k) If the criminal record transcript of any individuals specified in the Health and Safety Code Section 1596.871(b) discloses a plea or verdict of guilty, or a conviction following a plea of nolo contendere, for any crime other than a minor traffic violation for which the fine was less than \$300 and an exemption pursuant to Section 101170.1(a) has not been granted, the Department shall take the following actions:

(1) For initial applicants, denial of the application.

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

(4) For convicted individuals residing in the facility, licensee or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1596.8897, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the facility.

(l) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.

(1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

(m) If the Department determines that any licensee or individual specified in Health and Safety Code Section 1596.871(b) is arrested for a crime for which, if convicted, an individual is not eligible, by law, to receive an exemption, pending completion of its investigation into the facts underlying the arrest, the Department may take the following actions:

(1) If the arrested individual is a licensee, the Department may notify the licensee, by telephone or in writing, to immediately cease operation for up to 30 days.

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(2) If the individual arrested is not a licensee, the Department may notify the licensee and the individual associated with the facility, by telephone or in writing, that the individual may not be present in the facility for up to 30 days.

(n) After the Department notifies the licensee, pursuant to Section 101170(o)(1), or the individual pursuant to Section 101170(o)(2), he or she may present a written appeal that:

(1) he or she is not the individual who was arrested,

(2) he or she has not been arrested for a crime that by law an individual is not eligible to receive an exemption, or

(3) he or she was arrested for a crime that by law an individual is not eligible to receive an exemption but the charges have been dropped or reduced to a crime that by law an individual would be eligible to receive an exemption.

The appeal shall contain the licensee's or individual's current address and telephone number. After the Department receives the appeal and any supporting documentation, it shall review the appeal and notify the licensee or individual of its decision within five (5) working days.

(o) Should the Department determine at any time during the 30 days referred to in Sections 101170(o)(1) and (o)(2) that the criminal charges have been dropped or reduced to a charge for a crime that by law an individual would be eligible to receive an exemption, the Department shall immediately rescind the notice.

(p) Nothing in this action shall be interpreted to supercede the Department's authority under Sections 1596.886 and 1596.8897 of the Health and Safety Code.

22 CCR § 101170.1

§ 101170.1. Criminal Record Exemption.

(a) The Department will notify a licensee to act immediately to terminate the employment of, remove from the facility or bar from entering the facility any person described in Sections 101170.1(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.

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- (1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;

- (2) Any person who has been convicted of a felony;

- (3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1596.871(c)(2);

- (4) Any person who has been convicted of any crime specified below:
 - (A) Battery

 - (B) Shooting at Inhabited Dwelling

 - (C) Corporal Injury on Spouse/Cohabitant

 - (D) Discharging Firearm with Gross Negligence

 - (E) Exhibiting Weapon/Firearm

 - (F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death

 - (G) Criminal Threat to Harm or Injure Another Person

 - (H) Cruelty to Animals

 - (I) Willful Harm or Injury to Child; or

- (5) Any other person ordered to be removed by the Department.

(b) In addition to the requirements of Section 101170.1(a), the licensee must return the confirmation of removal

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form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.

(1) Confirmation must be made on either a Removal Confirmation - Exemption Needed, LIC 300A (Rev. 9/03), Removal Confirmation - Denial, LIC 300B (Rev. 9/03), Removal Confirmation - Rescinded, LIC 300C (Rev. 9/03), or Removal Confirmation - Nonexemptible, LIC 300D (Rev. 9/03).

(c) After a review of the criminal record transcript, the Department may grant an exemption if:

(1) The applicant /licensee requests an exemption for himself or herself, or

(2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or

(3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and

(4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment or residence in a licensed facility.

(d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 101170.1(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

(1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.

(2) The notice will list the information that must be submitted to request a criminal record exemption.

(3) The information must be submitted within forty-five (45) days of the date of the Department's notice.

(A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, police reports and certified court documents to process the exemption request, pursuant to Section 101170.1(e).

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(B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may cease processing the exemption request and close the case.

(C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee/license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may deny the exemption request.

(D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant:

1. Chooses not to request the exemption and

2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history, or

3. Removes the individual who resides in the facility after receiving notice of the individual's criminal history.

(e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:

- (1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.

- (2) Period of time since the crime was committed and number of offenses.

- (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.

- (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

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(5) A full and unconditional pardon granted by the Governor.

(6) Character references.

(A) All character references shall be on a Reference Request form (LIC 301E - Exemptions [Rev. 7/03]).

(7) A certificate of rehabilitation from a superior court.

(8) Evidence of honesty and truthfulness as revealed in exemption application documents.

(A) Documents include, but are not limited to:

1. A Criminal Record Statement (LIC 508, Criminal Record Statement [Rev. 1/03]) and

2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.

(9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.

(f) The Department shall also consider the following factors in evaluating a request for an exemption:

(1) Facility and type of association.

(2) The individual's age at the time the crime was committed.

(g) The Department may deny the individual's exemption request if:

(1) The individual fails to provide documents requested by the Department, or

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(2) The individual fails to cooperate with the Department in the exemption process.

(h) The reasons for any exemption granted or denied shall be in writing and shall be kept by the Department.

(1) Exemption denial notices shall specify the reason the exemption was denied.

(i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.

(j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:

(1) Makes a knowingly false or misleading statement regarding:

(A) Material relevant to their application for a criminal record clearance or exemption,

(B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or

(C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or

(2) Is on probation or parole.

(A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 101170.1(j)(2).

(k) The Department shall consider granting a criminal record exemption for an individual when the individual's criminal record history meets all of the applicable criteria specified in Sections 101170.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in

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Section 101170.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated and/or the reports regarding the underlying offense, presents a risk of harm or violence.

(1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.

(2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(6) The individual has not been convicted of a violent felony.

(7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Section 101170.1(k)(1) through (5) above shall begin from the last date of conviction(s).

(l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 101170.1(k)(1) through (6).

(m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1596.871(f) of the Health and Safety Code.

(n) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 101170.1(n)(1) through (4) below:

(1) The individual does not have a demonstrated pattern of criminal activity;

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- (2) The individual has no more than one conviction;

- (3) The conviction is a misdemeanor and is a crime that is nonviolent and does not pose a risk of harm to an individual; and

- (4) It has been at least five consecutive years since the completion of the most recent period of incarceration or supervised probation.

- (o) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.

- (p) If the Department denies or cannot grant a criminal record exemption the Department shall:
 - (1) For initial applicants, deny the application.

 - (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

 - (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

 - (4) For individuals residing in the facility, including spouses of the applicant or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1596.8897, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.

- (q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 101170.1(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.
 - (1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the

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denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.

(2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.

(3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 101170.1(q)(1) above, the Department may, according to the provisions in Section 101170.1 et seq., grant or deny the subsequent request for an exemption.

(4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 101170.1. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.

(r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:

(1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 9/03).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.

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(3) Any other documentation required by the Department (e.g., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).

(s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve the transfer of an exemption from one facility to another:

(1) The basis on which the Department granted the exemption;

(2) The nature and frequency of client contact in the new position;

(3) The category of facility where the individual wishes to transfer;

(4) The type of clients in the facility where the individual wishes to transfer;

(5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or

(6) Whether the exemption meets current exemption laws or regulations.

(t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.

(u) At the Department's discretion, an exemption may be rescinded if it is determined that:

(1) The exemption was granted in error or

(2) The exemption does not meet current exemption laws or regulations or

(3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.

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(v) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct which is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:

(1) Violations of licensing laws or regulations;

(2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;

(3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or

(4) The individual is convicted of a subsequent crime.

(w) If the Department rescinds an exemption the Department shall:

(1) Notify the licensee and the affected individual in writing; and

(2) Initiate an administrative action.

(x) If the Department learns that an individual has been convicted of a crime after obtaining a criminal record clearance or exemption, the Department, at its sole discretion, may initiate an administrative action to protect the health and safety of clients.

22 CCR § 101170.2

§ 101170.2. Child Abuse Central Index.

(a) Prior to granting a license for a child care center, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Health and Safety Code Section 1596.877 and Penal Code Section 11170(b)(3). The Department shall check the CACI for the applicant(s) and all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1596.871(a) and shall have the authority to approve or deny a facility license, employment, or presence in the facility based on the results of the review.

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(1) The applicant shall submit the Child Abuse Central Index checks (LIC 198A [3/99]) for all individual's required to be checked directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 101170(a).

(A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A [3/99]) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).

(2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

(b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1596.871, shall complete a Child Abuse Central Index check (LIC 198A [3/99]) prior to employment or initial presence in the child care facility.

(1) The licensee shall submit the Child Abuse Central Index checks (LIC 198A [Rev. 3/99]) directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 101170(d).

(A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A [3/99]) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).

(2) The Department shall check the Child Abuse Central Index (CACI) pursuant to Penal Code Section 11170(b)(3). The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

(3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

22 CCR § 101171

§ 101171. Fire Clearance.

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(a) All child care centers shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

(1) The request for fire clearance shall be made through and maintained by the Department.

(b) The applicant shall notify the Department if the child care center plans to enroll children who are nonambulatory as defined in Section 101152n.(1), so that an appropriate fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal can be obtained prior to the acceptance of such children.

22 CCR § 101172

§ 101172. Water Supply Clearance.

(a) All child care centers where water for human consumption is from a private source shall meet the following requirements:

(1) As a condition of initial licensure, the applicant shall provide evidence of an onsite inspection of the source of the water and a bacteriological analysis that establishes the safety of the water. The inspection and the bacteriological analysis shall be conducted by the local health department, the California Department of Health Services or a licensed commercial laboratory.

(2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the children, but no less frequently than specified in the following table:

		PERIODIC
LICENSED	ANALYSIS	SUBSEQUENT
CAPACITY	REQUIRED	ANALYSIS
6 or fewer	Initial licensing	Not required unless evidence supports the need for such

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		analysis to protect children.
7 through 15	Initial licensing	Annually
16 through 24	Initial licensing	Semiannually
25 or more	Initial licensing	Quarterly

22 CCR § 101173

§ 101173. Plan of Operation.

(a) Each licensee shall have and keep on file a current written, definitive plan of operation. A copy of the plan shall be submitted to the Department with the license application.

(b) The plan and related materials shall contain the following:

- (1) Statement of purposes, and program methods and goals.
- (2) Statement of admission policies and procedures.
- (3) A copy of the admission agreement.
- (4) Administrative organization, if applicable.
- (5) Staffing plan, qualifications and duties, if applicable.
- (6) Plan for in-service education of staff if required by regulations governing the specific child care center category.

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(7) A sketch of the building(s) to be occupied, including a floor plan that describes the capacities of the buildings and the uses intended, the room dimensions, and the rooms to be used for nonambulatory children; and a sketch of the grounds that shows buildings, driveways, fences, storage areas, pools, gardens, recreation areas and other space used by the children. All sketches shall show dimensions.

(8) Sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.

(9) Transportation arrangements provided by the applicant/licensee for children who do not have independent arrangements.

(10) Rate-setting policy including, but not limited to, a policy on refunds.

(11) Consultant and community resources to be utilized by the child care center as part of its program.

(c) Any proposed changes in the plan of operation that affect services to children shall be subject to departmental approval prior to implementation and shall be reported as specified in Section 101212.

(d) The child care center shall operate in accordance with the terms specified in the plan of operation.

22 CCR § 101174

§ 101174. Disaster and Mass Casualty Plan.

(a) Each licensee shall have a disaster and mass casualty plan of action. The plan shall be in writing and shall be readily available.

(b) The plan shall be subject to review by the Department and shall include:

(1) Designation of administrative authority and staff assignments.

(2) Contingency plans for action during fires, floods and earthquakes including, but not limited to, the following:

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(A) Fire safety plan.

(B) Means of exiting.

(C) Transportation arrangements.

(D) Relocation sites that are equipped to provide safe temporary accommodations for children.

(E) Supervision of children during evacuation or relocation, and contact after relocation to ensure that relocation has been completed as planned.

(F) Means of contacting local agencies, including but not limited to the fire department, law enforcement agencies, and civil defense and other disaster authorities.

(3) Any special methods and procedures necessary for the evacuation and relocation of nonambulatory children.

(c) The licensee shall instruct all children, age and abilities permitting, and all child care personnel, including volunteers, in their duties and responsibilities under the plan.

(d) Disaster drills shall be conducted at least every six months.

(1) Completion of such drills shall not require travel away from the child care center grounds or contact with local disaster agencies.

(2) The drills shall be documented. This documentation shall be kept in the child care center for at least one year.

22 CCR § 101175

§ 101175. Waivers and Exceptions for Program Flexibility.

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(a) Unless the licensee receives prior written departmental approval for a waiver or an exception as specified in (b) below, the licensee shall maintain continuous compliance with all licensing regulations.

(b) The Department has the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects, under the following circumstances:

(1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any child in care.

(2) The applicant or licensee shall submit to the Department a written request for a waiver or an exception and substantiating evidence supporting the request.

(3) Within 30 days of the receipt of a request for a waiver or an exception, the Department shall notify the applicant or licensee in writing of the approval or denial of the request, or of the need for additional information to substantiate the request.

(A) The licensee shall maintain and make available for review, at the child care center, a copy of the written approval or denial.

22 CCR § 101178

§ 101178. Application Review.

(a) If the applicant has not submitted all materials specified in Section 101169 within 90 days of the Department's receipt of the application, the Department shall notify the applicant in writing that the application is incomplete. This notice shall describe the materials that the applicant must submit to complete the application.

(1) If the applicant does not complete the application within 30 days after such notice, the application shall be deemed withdrawn provided that the Department has not denied or taken action to deny the application.

(A) The above requirement shall not apply to child care centers under construction.

(b) The Department shall cease review of any application under the conditions specified in Health and Safety Code Section 1596.851.

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(2) The circumstances and conditions under which the Department may continue to review a previously denied application shall include, but not be limited to, the following:

(A) A fire clearance previously denied but now approved;

(B) An administrator who previously did not meet the minimum qualifications but now does; or

(C) A person with a criminal record previously associated with the center, which was the basis for license denial, but who is now no longer associated with the center.

(3) This review shall not constitute approval of the application.

(4) If the Department ceases review of an application, the application shall be returned to the applicant. The applicant shall be responsible for requesting the Department to resume reviewing the application pursuant to Health and Safety Code Section 1596.851.

(c) The application fee is nonrefundable.

22 CCR § 101179

§ 101179. Capacity Determination.

(a) A license shall be issued for a specific capacity, which shall be the maximum number of children that can be cared for at any given time. The Department may issue a license for fewer children than requested.

(b) The number of children for which the child care center is licensed to provide care and supervision shall be determined on the basis of the Department's application review, which shall take into consideration the following:

(1) The fire clearance specified in Section 101171.

(2) The licensee's/administrator's ability to comply with applicable laws and regulations.

(3) Physical features of the child care center, including available space, that are necessary to comply with this

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chapter.

(4) Number of available staff to meet the care and supervision needs of the children.

(5) Any restrictions pertaining to the specific category of child care center.

(c) When the license is issued for fewer children than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 101205.

(d) The Department has the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors specified in (b) above.

(1) If the licensee does not agree to the decrease in capacity, the Department has the authority to initiate revocation action as specified in Section 101206.

(e) The Department is authorized to restrict care to specific individuals.

(1) If care and supervision are limited to specific individuals, the Department shall specify the names of the individuals in a letter to the licensee.

(2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 101205.

22 CCR § 101180

§ 101180. Withdrawal of Application.

(a) An applicant may withdraw an application for a license. The withdrawal of the application shall be in writing.

(1) The fee for processing the application shall be forfeited.

(b) As specified in Health and Safety Code Section 1596.854, the Department has the authority to take action against

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an applicant even if the applicant has withdrawn an application for a license.

22 CCR § 101181

§ 101181. Provisional License.

(a) The Department has the authority to issue a provisional license pursuant to Health and Safety Code Sections 1596.84 and 1596.96 provided the child care center is in substantial compliance with applicable laws and regulations, as defined in Section 101152s.(4), and has submitted a completed application as specified in Section 101152c.(8).

(b) The Department shall not issue a provisional license if a corporate applicant's board of directors, executive director and officer are ineligible for licensure, as specified in Health and Safety Code Section 1596.952(b).

(c) The Department has the authority to issue a provisional license for a maximum of 90 days to otherwise qualified applicants who are not in compliance with the requirements for health and safety training as specified in Health and Safety Code Section 1596.866.

(d) During the provisional license period, if the Department discovers any deficiencies that threaten the physical health, mental health, safety or welfare of the children, the Department has the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.

(e) A provisional license terminates on the date specified on the provisional license or upon denial of the application, whichever is earlier.

(1) Health and Safety Code Section 1596.84 specified how long and under what circumstances a provisional license may last.

(f) If the Department determines after its review specified in Section 101178 that the provisional licensee does not meet licensing requirements, the application shall be denied as specified in Section 101205; the provisional license shall immediately terminate; and operation shall immediately cease.

(g) If the Department denies the application for a license, the applicant may appeal the denial as provided in Section 101205. Until the Director adopts a decision on the denial action, the child care center is unlicensed.

22 CCR § 101182

§ 101182. Issuance/Term of a License.

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(a) The Department shall issue a license to an applicant in accordance with the provisions of Health and Safety Code Section 1597.13 after a completed application has been compiled and upon determination that all licensing requirements have been met.

(2) A separate license shall be issued for each component of a combination center.

(3) If the application is denied, the notice of denial shall include the information specified in Section 101205.

(b) Issuance of a license shall constitute written notice that the application is complete and has been granted.

(c) No limitation shall be imposed on the licensee or printed on the license solely because a licensee is a parent who has administered or will continue to administer corporal punishment not constituting child abuse, as defined in Penal Code Section 11165(g) or Health and Safety Code Section 1531.5(c), on his/her own child(ren).

(d) Except for provisional licenses as provided in Section 101181, a license remains in effect until it is:

(1) Forfeited or surrendered as specified in Sections 101186 through 101187 and in Health and Safety Code Section 1596.858.

(2) Suspended or revoked as specified in Section 101206.

(e) As a condition of licensure, child care personnel shall complete health and safety training pursuant to Health and Safety Code Section 1596.866.

22 CCR § 101184

§ 101184. Application for Renewal of a License.

22 CCR § 101185

§ 101185. Submission of New Application.

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(a) A licensee shall file a new Application Booklet (LIC 281A [12/96]) and supporting documents as specified in Section 101169 whenever there is a proposed change of any of the following types:

(1) Child care center category.

(A) Notwithstanding (a) and (a)(1) above, a licensee wishing to add a toddler component to its existing preschool or infant care program shall submit an amended application as specified in Section 101169(a)(1)(A). The toddler program component is considered an extension of the preschool or infant care license.

(2) Sale or transfer of the majority of stock.

(3) Separating from a parent company.

(4) Merger with another company.

(5) Change of licensee.

(b) When a licensee proposes a change in capacity, a change in the number of nonambulatory children or a change in location, the licensee may, in lieu of filing an entirely new LIC 281A (12/96) and supporting documents as specified in Section 101169, transfer documents from an existing application to a new application. In such a case, the new application documents must include:

(1) An Application for a Child Day Care Center License (LIC 200A [12/92]).

(2) A fire clearance, if necessary.

(3) An update of existing application documents affected by the change, as determined by the Department.

(d) A new LIC 281A (12/96) and supporting documents as specified in Section 101169 shall be filed whenever an applicant fails to complete a new application within the time limit required by Section 101178(a) if the applicant chooses to continue the application process.

22 CCR § 101186

§ 101186. Conditions for Forfeiture of a Child Care Center License.

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(a) Conditions for forfeiture of a child care center license shall be as specified in Health and Safety Code Section 1596.858.

(2) "Licensee abandons the facility [child care center]" shall mean either of the following:

(A) The licensee informs the Department that the licensee no longer accepts responsibility for the child care center; or

(B) The Department is unable to determine the licensee's whereabouts after the following:

1. The Department requests information about the licensee's whereabouts from the child care center staff, if any staff can be contacted; and

2. The Department has made at least one phone call per day to the licensee's last telephone number of record for five consecutive workdays with no response; and

3. The Department has sent a certified letter requesting the licensee to contact the Department to the licensee's last mailing address of record with no response within seven calendar days.

(b) If the licensee dies, an adult relative who has control of the property may operate a previously licensed child care center under an Emergency Approval to Operate (EAO) (LIC 9117 [4/93]) provided the following conditions are met:

(1) The relative, or an adult acting on the relative's behalf, notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the child care center.

(2) The relative files with the Department within five calendar days of the licensee's death an Application for a Child Day Care Center License (LIC 200A [12/92]) and evidence of the licensee's death as specified in Section 101152e.(4).

(A) Notwithstanding the instructions on the LIC 200A (12/92), the Department shall permit the relative to submit only the information on the front side of the LIC 200A (12/92).

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(3) The relative files his/her fingerprint cards with the Department of Justice within five calendar days of the licensee's death.

(c) If the adult relative complies with (b)(1) and (b)(2) above, he/she shall not be considered to be operating an unlicensed child care center pending the Department's decision on whether to approve a provisional license.

(d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 101181.

(1) A provisional license shall be granted only if the Department is satisfied that the conditions specified in (b) above and Section 101181 have been met and that the health and safety of the children attending the child care center will not be jeopardized.

22 CCR § 101187

§ 101187. Licensing Fees.

(a) An applicant or licensee shall be charged fees as specified in Health and Safety Code Section 1596.803.

(b) When a licensee moves a child care center from one location to another, the relocation fee shall be as specified in Health and Safety Code Section 1596.803(b)(1)(A).

(1) To qualify for the relocation fee, the following shall apply:

(A) The licensee has notified the Department before actually relocating the child care center.

(B) The child care center licensing category remains the same.

(C) The fee is based on the capacity requested for the new location.

(c) The fees are nonrefundable.

22 CCR § 101191

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§ 101191. Denial of Initial License.