

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 4. Enforcement Provisions

22 CCR § 101192

§ 101192. Denial of a Renewal License.

22 CCR § 101193

§ 101193. Deficiencies in Compliance.

(a) If during a licensing evaluation the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency unless the deficiency is not serious and is corrected during the visit.

(b) Prior to completion of an evaluation or other licensing visit, the person in charge of the child care center shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.

(c) The evaluator shall, at the completion of the visit, personally deliver the notice of deficiency to the licensee or the person in charge of the child care center. If the licensee is not present, the evaluator shall also mail a copy of the notice to the licensee.

(1) If the person in charge of the child care center refuses to accept the notice, the evaluator shall make a note of the refusal on the notice and leave a copy of the notice at the center. The evaluator shall also mail a copy of the notice to the licensee.

(d) The notice of deficiency shall be in writing and shall include the following:

(1) A citation of the law or regulation that has been violated.

(2) A description of the deficiency stating the manner in which the licensee failed to comply with a specified law or regulation and, if applicable, the particular place or area of the child care center in which the deficiency occurred.

(3) The plan developed, as specified in (b) above, for correcting each deficiency.

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(4) A date by which each deficiency shall be corrected.

(A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:

1. The potential hazard presented by the deficiency.
2. The number of children affected.
3. The availability of equipment or personnel necessary to correct the deficiency.
4. The estimated time for delivery and/or installation of necessary equipment.

(B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.

(C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify the corrective actions that must be taken within 30 calendar days to begin correction.

(D) If civil penalties are assessed, the evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice of deficiency the date by which the correction must be made.

(5) The amount of the civil penalty assessed and the date the penalty begins.

(6) The address and telephone number of the Department's office responsible for reviewing notices of deficiencies for the area in which the child care center is located.

22 CCR § 101194

§ 101194. Follow-up Visits to Determine Compliance.

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(a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.

(1) A follow-up visit shall be conducted within 10 working days following the date(s) of correction specified in the notice of deficiency unless the licensee has demonstrated that the deficiency was corrected as required.

(2) No penalty shall be assessed unless a follow-up visit is conducted.

(b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.

(c) A notice of penalty shall be in writing and shall include:

(1) The amount of the penalty assessed and the date the payment is due.

(2) The name and address of the agency responsible for collecting the penalty.

(d) When an immediate penalty has been assessed pursuant to sections 101195(c), (d) and (e), and correction is made when the evaluator is present, a follow-up visit is not required.

22 CCR § 101195

§ 101195. Penalties.

(a) A penalty of \$50 per day, per cited violation, shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.

(b) Notwithstanding Section 101195(a) above, an immediate penalty of \$100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1596.871(b) has not obtained a California clearance or criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 101170(e) prior to working, residing or volunteering in the facility.

(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.

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

(3) Progressive civil penalties specified in Sections 101195(d) and (e) below shall not apply.

(c) Notwithstanding (a) above, an immediate penalty of \$150 per day shall be assessed if a child becomes sick, is injured or dies as a result of a deficiency.

(d) When a child care center is cited for a deficiency and violates the same regulation subsection within a 12-month period, the child care center shall be cited and an immediate penalty of \$150 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$50 per day, per cited violation, shall be assessed until the deficiency is corrected.

(e) When a child care center that was cited for a deficiency subject to the immediate penalty assessment specified in Section 101195(d) above violates the same regulation subsection within a 12-month period of the last violation, the child care center shall be cited and an immediate penalty of \$150 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$150 per day, per cited violation, shall be assessed until the deficiency is corrected.

(1) For purposes of Sections 101195(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

(f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.

(1) Immediate penalty assessment as specified in Sections 101195(c), (d) and (e) shall begin on the day the deficiency is cited.

(g) If a licensee or his/her representative reports to the Department that a deficiency has been corrected, the penalty shall cease as of the day the Department receives either verbal or written notification that the correction was made.

(1) If the evaluator determines the deficiency was not corrected as reported, civil penalties shall continue to accrue from the date of the original citation.

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(2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

(h) If necessary, a site visit shall be made immediately or within five working days to confirm that the deficiency has been corrected.

(i) If an immediate civil penalty is assessed and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.

(j) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of the notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

(k) The Department has the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

22 CCR § 101196

§ 101196. Review of Licensing Decisions.

(a) Any person may request a review of a licensing decision against him/her within 10 working days of receipt of the written decision unless an administrative action pursuant to the California Administrative Procedure Act has commenced against the person.

(1) "Licensing decision" means a decision that applies to notices of deficiency, civil penalties, and waivers and exceptions.

(2) If the review is of a deficiency that has not been corrected, civil penalties continue to accrue during the review process.

(b) The review specified in (a) above shall be conducted by a higher-level staff person than the person who made the licensing decision and issued the related notice of deficiency, civil penalty, or waiver or exception.

(c) The reviewer may uphold, amend or dismiss the licensing decision; or may extend the date specified for the correction of a deficiency.

22 CCR § 101197

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§ 101197. Exemption from Civil Penalties.

(a) Civil penalties shall not be assessed against any governmental entity, including a state or city, holding a child care center license.

22 CCR § 101198

§ 101198. Unlicensed Facility Penalties.

(a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed child care center under either of the following conditions:

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of a Notice of Operation in Violation of Law pursuant to Section 101157, and continues to operate.

(A) For purposes of this section, an application is deemed completed if it includes the information required in Section 101169.

(B) The completed application is deemed to be submitted when received by the Department.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, child care center operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed child care center as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law and has not submitted a completed application as required.

(A) The \$200 per day penalty shall continue until the operator ceases operation or submits a completed

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application pursuant to Section 101198(a)(1)(A) and (B).

(2) On the 10th calendar day after the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The \$200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the Department that unlicensed operation has ceased, the penalty shall cease as of the day the Department receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed child care center operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed child care center operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the Department, and shall be paid by check or money order made payable to the Department as indicated in the notice.

(e) The Department has the authority to file a claim in any court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

(g) A person assessed civil penalties may appeal the penalty under Section 101196.

22 CCR § 101198.1

§ 101198.1. Denial or Revocation of License for Failure to Pay Civil Penalties.

(a) The licensee shall be responsible for paying civil penalties.

(1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.

(b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty

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 4. Enforcement Provisions assessments.

(1) The Department shall have the authority to approve payment arrangements acceptable to the Department.

(2) The Department shall have the authority to approve the form of payment.

(3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.

(c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1596.887.

22 CCR § 101200

§ 101200. Inspection Authority of the Department.

(a) The Department has the inspection authority specified in Health and Safety Code Sections 1596.852, 1596.853 and 1596.8535.

(b) The Department has the authority to interview children or staff without prior consent.

(1) The licensee shall ensure that provisions are made for private interviews with any children or staff members.

(c) The Department has the authority to inspect, audit, and copy child or child care center records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements in Sections 101217(c) and 101221(d).

(1) The licensee shall ensure that provisions are made for the examination of all records relating to the operation of the child care center.

(d) The Department has the authority to observe the physical condition of the child(ren), including conditions that could indicate abuse, neglect or inappropriate placement.

22 CCR § 101201

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§ 101201. Evaluation Visits.

(a) Child care centers shall be evaluated as specified in Health and Safety Code Sections 1569.8535(a) [as referenced in Section 101200(a)], 1596.98, 1596.99, 1597.08 and 1597.09.

(b) The Department has the authority to make any number of other visits to a child care center in order to determine compliance with applicable laws and regulations.

22 CCR § 101202

§ 101202. Serious Deficiencies.

22 CCR § 101203

§ 101203. Deficiencies in Compliance.

22 CCR § 101204

§ 101204. Follow-up Visits to Determine Compliance.

22 CCR § 101205

§ 101205. Denial of License.

(a) Except as specified in Section 101181, which provides for issuance of a provisional license based upon substantial compliance, the Department shall deny an application for a license if the applicant is not in compliance with applicable laws and regulations. The Department shall issue the denial in accordance with Health and Safety Code Section 1597.11,

(1) The Department shall deny an application if the applicant fails to pay any civil penalty assessments, unless payment arrangements acceptable to the Department have been made.

(2) The Department may deny an application for licensure or revoke a license if the applicant/licensee, staff and/or volunteers violate Health and Safety Code Section 1596.885.

(3) The Department shall deny an application for licensure for grounds specified in Health and Safety Code Section 1596.952(b).

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(4) An application shall not be denied solely because the applicant 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).

(b) If an application is denied, the Department shall inform the applicant of the denial in writing.

(1) The notice shall include the reasons for the denial. The notice shall also advise the applicant of the right to appeal as provided for by Health and Safety Code Section 1596.879.

(c) If the application for a license is denied, the application processing fee shall be forfeited.

(d) Notwithstanding any appeal action, the child care center is unlicensed and shall not operate pending adoption by the Director of a decision on the denial action.

22 CCR § 101206

§ 101206. Revocation or Suspension of License.

(a) The Department has the authority to suspend or revoke a license on any of the grounds specified in Health and Safety Code Section 1596.885.

(b) The Department has the authority to revoke a license pursuant to Health and Safety Code Section 1596.866, which requires child care personnel as specified to complete health and safety training.

(c) Proceedings to hear a revocation action, or a revocation and temporary suspension action, shall be conducted pursuant to Health and Safety Code Sections 1596.886 and 1596.887.

22 CCR § 101207

§ 101207. Licensee/Applicant Complaints.

22 CCR § 101208

§ 101208. Exclusions.

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(a) The Department may prohibit an individual from serving as a member of the board of directors, executive director, or officer; being employed or allowed in a licensed facility, as specified in Health and Safety Code Sections 1596.8897 and 1596.8898.

22 CCR § 101209

§ 101209. Unlicensed Facility Penalties.

22 CCR § 101210

§ 101210. Unlicensed Facility Administrative Appeal.