

A.A.C. T. 6, Ch. 5, Art. 50, Refs & Annos

A.A.C. R6-5-5001

R6-5-5001. Definitions

The following definitions apply in this Article.

1. "ADE" means the Arizona Department of Education, which administers the CACFP at the state level.
2. "Alternate approval" means a status the ADE confers on an uncertified, unlicensed provider that demonstrates compliance with CACFP child care standards to the ADE.
3. "Caregiver state licensing ratio requirements" means Arizona Department of Health Services (DHS) regulations that mandate DHS oversight of child care facilities with five or more children in care for compensation where child care is provided for periods of less than 24 hours per day.
4. "Child care" means a compensated service that is provided to a child unaccompanied by a parent or guardian during a portion of a 24-hour day. The service includes supervised and planned care, training, recreation, and socialization.
5. "CACFP" means the Child and Adult Care Food Program, funded and administered at the federal level by the Food and Consumer Services, a program of the U.S. Department of Agriculture.
6. "CCR& R" means child care resource and referral, a service the Department administers under A.R.S. § 41-1967.
7. "Center" means the same as "child care facility" in A.R.S. § 36-881(3).
8. "Certified" or "licensed" means a provider holds a license as prescribed in A.R.S. § 36-882, or is certified under A.R.S. § 46-807 or A.R.S. § 36-897.
9. "Child with special needs" means a child who needs increased supervision, modified equipment, modified activities, or a modified facility, within a child care setting, due to any physical, mental, sensory, or emotional delay, or medical condition, and includes a child with a disability.
10. "Compensation" means something given or received in return for child care, such as money, goods, or services.
11. "Contractor" means an agency with which the Department contracts for provision of CCR& R services.
12. "Customer" means a person who is requesting information from a CCR& R contractor.
13. "Database" means a computerized collection of CCR& R facts, figures, and information for licensed, certified, and

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registered providers and customers arranged for ease and speed of retrieval.

14. "Department" or DES means the Arizona Department of Economic Security.

15. "Dropped for cause" means an ADE Sponsoring Organization has terminated a family child care provider from participation in the CACFP.

16. "Exclude" means to refuse to include a particular provider in or to remove a provider from the CCR& R database.

17. "Family child care" means child care provided by a certified or registered provider in the provider's own home.

18. "In-home child care" means child care provided in a child's own home.

19. "Information only listing" means a provider listed on the CCR& R who will receive training information and other information about child care issues and activities, but who will not receive any referrals.

20. "Listing status" means the condition under which a provider may receive a referral (referral listing) or is restricted from receiving a referral (information only listing).

21. "Over-Ratio Referral Form" means a communication tool used to relay to the Department of Health Services (DHS) information concerning a potential violation of caregiver state licensing ratio requirements.

22. "Personally identifiable information" means any information about a person other than a provider, that, when considered alone, or in combination with other information, identifies or permits another person to readily identify the person who is the subject of the information. Personally identifiable information includes:

a. Name, address, and telephone number;

b. Date of birth or age;

c. Physical description;

d. School;

e. Place of employment; and

f. Any unique identifying number, such as driver's license number, a social security number, or regulatory license number.

23. "Program Administrator" means the person who oversees the Child Care Administration, a unit of the Department.

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24. "Provider" means an adult who, or a facility that, provides child care services.
25. "Provider type" means a category of provider or program such as a center, family child care, and in-home child care.
26. "Referral" means the information listed in R6-5-5005(C), (D), and (E), that a Contractor gives to a customer.
27. "Referral listing" means that a contractor may refer a provider listed on the CCR& R registry or database to customers, and the provider may receive training and other information about child care issues and activities.
28. "Registered provider" means a family child care provider who is an adult and is not licensed or certified by any government agency, but who meets the requirements to be listed in the CCR& R registry.
29. "Registry" means the list of providers that:
- a. Are not licensed or certified by a government agency,
 - b. Voluntarily list with CCR& R, and
 - c. Meet the requirements under A.R.S. § 41-1967 to receive referrals and training information.
30. "Regulated" means a provider who is required to meet licensing or certification standards set by a government agency, including a federal, state, or tribal government agency.
31. "Revocation" means the permanent removal of a child care provider's license or certificate by a government agency.
32. "SDA" means service delivery area, which is a specific geographic area where CCR& R services are offered.
33. "Sponsoring organization" means a public or non-profit private organization that administers the CACFP on behalf of ADE.
34. "Suspension" means that a regulatory agency has temporarily removed a provider's certificate or license.
35. "Work day" means Monday through Friday, excluding Arizona state holidays.

A.A.C. R6-5-5002

R6-5-5002. Provider Participation Requirements

A. To be considered for inclusion in the CCR& R database, a provider shall submit the following information to the Contractor for the provider's SDA:

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1. Provider's name;
2. Address;
3. Phone number;
4. Days and times the facility is open;
5. Ages of children accepted;
6. Capacity;
7. Regulatory affiliation, if any;
8. Meals provided to children in care;
9. Training and experience;
10. Accreditation;
11. Fees;
12. School transportation;
13. DES Provider ID, if applicable;
14. The provider's choice of listing status; and
15. DHS Child Development Center (CDC) or Small Group Home (SGH) number.

B. Regulated Providers: Before adding a regulated provider to the CCR& R database, the Contractor shall confirm the provider's regulatory affiliation with the appropriate regulatory agency. For the purpose of this subsection, confirmation of the regulatory affiliation is based solely on the accuracy of the information obtained from the regulatory agency.

C. Registered Providers: The provisions in this subsection govern provider participation requirements for registered family child care providers.

1. In addition to the information listed in subsection (A), a registered family child care provider shall complete and submit to the Contractor, on Department-approved forms, a notarized sworn statement and a notarized certification statement attesting that the provider is not subject to exclusion or removal from the CCR& R database under any of the grounds specified in A.R.S. § 41-1967(E).

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2. Before adding a registered family child care provider to the CCR& R registry and database, a Contractor shall review the provider's sworn statement and certification statement described in subsection (C)(1) and include on the registry only those providers who affirm that they are not subject to exclusion or removal under A.R.S. § 41-1967(E).

3. Before adding a registered family child care provider to the CCR& R registry and database, a Contractor shall receive clearance from the Department that neither a provider nor anyone providing care in the provider's home has had a child abuse or neglect investigation that has been substantiated by Child Protective Services (CPS) in this state.

A.A.C. R6-5-5003

R6-5-5003. Notification of Changes

A. A provider listed on the CCR& R database shall notify the Contractor of any changes to the information or statement given under R6-5-5002(A) or (C)(1).

B. A provider may modify self-initiated changes in listing status at any time by notifying the Contractor.

A.A.C. R6-5-5004

R6-5-5004. Referrals Not Guaranteed

A. A Contractor shall make referrals to participating providers on a random basis based on a family's self-reported needs.

B. A Contractor shall not:

1. Guarantee the number or frequency of referrals to a participating provider; or
2. Guarantee that listing on the CCR& R will result in economic benefit or gain to a participating provider.

A.A.C. R6-5-5005

R6-5-5005. Referral Process

A. To obtain a referral, a customer shall give the contractor the following information, if available, about the customer's child care needs:

1. Customer name;
2. Address;

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3. Phone number;
4. Days and times child care is needed;
5. Preferred type of child care provider;
6. Location where care is needed or preferred, and
7. Age of child.

B. A Contractor shall give a customer a referral that is consistent with the customer's stated preferences.

1. The Contractor shall not make a referral unless the Contractor can give the customer the names of at least three potential providers within the customer's search parameters.
2. If the Contractor cannot name at least three potential providers meeting the customer's stated preferences, the Contractor shall ask the customer to expand the search parameters until the Contractor can name at least three potential providers.

C. The Contractor shall provide the customer with provider profile information on each referred provider, including the following:

1. Provider's name;
2. Address or major cross streets;
3. Phone number;
4. Days and hours of operation;
5. Ages of children accepted;
6. Ratio and capacity;
7. Regulatory affiliation, if any;
8. Meal information;
9. Training and experience;
10. Accreditation;

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11. Fees and available subsidies;

12. School transportation.

D. As part of a referral, a Contractor shall give each customer written information that includes the following:

1. That the Contractor selects providers based on the customer's stated preferences;
2. That the Contractor provides referrals and does not recommend, endorse, or guarantee any particular child care provider;
3. That the Contractor does not regulate, monitor, or verify information supplied by a provider;
4. That a child's parent or guardian is solely responsible for choosing an appropriate child care provider to meet a family's needs; and
5. That a provider's listing status may change after their initial placement on the registry or database and that customers are encouraged to call back periodically for updated information.

E. As part of a referral, a Contractor shall provide the customer with the following Department-approved educational information:

1. A list of criteria to consider when selecting quality child care;
2. A description of the types of child care providers in Arizona;
3. A description of CCR& R services and a list of office locations and phone numbers statewide; and
4. An explanation of the process for filing a child care related complaint.

A.A.C. R6-5-5006

R6-5-5006. Monitoring; Complaint Recording and Reporting Requirements

A. Monitoring and Investigation: Neither the Department nor its Contractors monitor or investigate the activities of a provider, or investigate any complaint about a provider, except as otherwise prescribed by law for a family child care provider.

B. Regulated Providers: Upon receipt of a complaint about a regulated provider, a Contractor shall refer the complainant to the appropriate regulatory agency, law enforcement agency, or Child Protective Services.

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C. Registered Providers: The provisions in this subsection govern complaints about a registered provider.

1. Any person may complain about a registered family child care provider on the registry by notifying a Contractor. Upon receipt of a complaint on a registered family child care provider, a Contractor shall:

a. Refer the complainant to the appropriate investigative agency (law enforcement or child protective services), if the issue raised in the complaint is suspected child abuse or neglect. The contractor shall forward a complaint involving law enforcement or child protective services to the DES Child Care Administration for resolution;

b. Refer the complainant to DHS and forward an over-ratio referral form to DHS if the complaint alleges that the provider is caring for more children than the law allows; or

c. Take a complaint made in reference to a CACFP home provider not regulated by any other agency and forward the complaint to ADE for resolution by its sponsoring agencies.

d. Take the complaint if it raises an issue other than those described in subsections (C)(1)(a), (b) or (c).

2. If the Contractor takes the complaint as under subsection (C)(1)(c) or (d), the Contractor shall obtain and record, on a Department approved form, the following information, if available:

a. Provider name and address;

b. Summary of the complaint, including date and time of incident;

c. Name, address, and phone number of the person making the complaint, unless the complainant indicates that the complainant or someone else may come to substantial harm. The Contractor shall document a complainant's claim that substantial harm may result as a result of disclosure of the complainant's name, as prescribed in A.R.S. § 41-1010; and

d. If applicable, witness information, such as name, address, and phone number.

3. The person recording the information shall sign and date the form.

4. After redacting personally identifiable information, the Contractor shall send the complaint form to the provider for response within three work days.

5. The provider shall respond to the complaint by completing the provider response portion of the complaint form within 30 days of the complaint mailing date;

6. The Contractor shall allow the public to inspect the complaint, and the provider's response, if given, with all personally identifiable information redacted. After the 30-day provider response period has expired, the Contractor shall make a complaint available for public inspection at the Contractor's office or the Contractor may mail a copy of the complaint

A.A.C. R6-5-5007

R6-5-5007. Provider Listing Status

A. Regulated Providers:

1. When the Department learns that a regulatory agency has suspended a regulated provider's license, certificate, or alternate approval, the Department shall direct a Contractor to change the provider's listing status from referral listing to information only listing, using the process in R6-5-5009.
2. If a Contractor has changed a provider to information only listing status under subsection (A)(1), the Department shall direct the Contractor to return the provider to referral listing status if the regulatory agency removes the provider's suspension status.
3. The Department shall notify the provider in writing when the Department returns the provider to referral status. The Department shall send the notice within 10 work days of the change in status, and shall include the effective date of the change.

B. Registered Providers:

1. When the Department receives a complaint or is notified that a registered provider may have failed or may be unable to meet the needs of a family due to one of the following circumstances, the Department shall direct a Contractor to change a registered provider's listing status from referral listing to information listing using the process in R6-5-5009:
 - a. A child has allegedly been abused, neglected, exploited, or abandoned while in the registered provider's care;
 - b. A registered provider has allegedly been involved in activities or circumstances that may threaten the health, safety, or emotional well-being of a child, including, acts of physical violence, domestic disputes, or incidents involving deadly weapons or dangerous or narcotic drugs; or
 - c. As determined by DHS, a registered provider has allegedly violated state law by providing care to more than four children at any one time for compensation.
2. If a Contractor has changed a registered provider to information only listing status, as prescribed in subsection (B)(1), the Department shall direct the Contractor to return the registered provider to referral listing status if one of the following occurs:
 - a. Child Protective Services or a law enforcement agency determines that the allegation cannot be substantiated;
 - b. Child Protective Services or a law enforcement agency determines that the threat to a child has been eliminated; or
 - c. DHS determines that the registered provider may continue child care activities without obtaining a certificate or license.

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3. As used in subsection (B)(2), substantiation by a law enforcement agency means that law enforcement has referred a case to a prosecutorial agency with a recommendation to file charges.

4. The Department shall notify the registered provider in writing when the provider is returned to referral status. The Department shall send the notice within 10 work days of the change in status, and shall include the effective date of the change.

A.A.C. R6-5-5008

R6-5-5008. Provider Exclusion or Removal

A. The Department may direct a Contractor to exclude or remove a provider from the database according to the process in R6-5-5009, for the following reasons:

1. The provider fails or refuses to provide information as requested by the Department or a Contractor;
2. A regulatory agency or sponsoring organization verifies that the provider's license, certificate, or alternate approval has been denied, revoked, terminated, or dropped for cause;
3. The Department learns that information in the written, sworn, and notarized statements submitted by the provider under R6-5-5002(C) is false;
4. The provider is subject to removal or exclusion for any reason listed in A.R.S. § 41-1967(E); or,
5. The provider fails to comply with these rules.

B. A Contractor may summarily and without notice remove a provider from the CCR& R database for the following reasons:

1. The Contractor is unable to contact the provider because:
 - a. The provider's phone is disconnected;
 - b. The provider is no longer at the last known address and has given no forwarding address; or
 - c. The provider has died; or
2. The provider requests removal.

C. A provider removed under subsection (B) may request reinstatement by calling the Contractor for the provider's SDA and providing current information.

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D. Upon receipt of a request for reinstatement, the Contractor shall update the information listed in R6-5-5002 and, if applicable, confirm that the provider has submitted information requested by the Department or Contractor.

E. The Contractor shall reinstate the provider unless there are grounds for removal under subsections (A)(1) through (5).

A.A.C. R6-5-5009

R6-5-5009. Administrative Review Process

A. When the Department receives information indicating that the Department may need to change a provider's listing status or remove or exclude a provider, the Department Program Administrator or designee shall review the information and decide whether grounds exist as listed in R6-5-5007 or R6-5-5008(A).

B. If the Department decides to change a provider's listing status or to remove or exclude a provider, the Department shall:

1. Notify the Contractor to change the listing status or to remove or exclude the provider; and
2. Within 10 work days of the effective date of the change of listing status, removal or exclusion, send the provider written notice via certified mail of the action taken.

C. The notice shall include the following information:

1. The effective date of the change in listing status or the removal or exclusion;
2. The reason for the change in listing status or the removal or exclusion;
3. The statutory provision requiring the provider's change in listing status or the removal or exclusion;
4. An explanation of the provider's right to an administrative review; and,
5. A statement explaining where the provider may file a written request for an administrative review and the time period for doing so.

D. The Department shall mail the notice to the provider's last known address. The mailing date is presumed to be the date appearing on the notice.

E. A provider may request an administrative review by filing a written request for review with the Department, within 15 work days after the mailing date of the Department's notice.

F. The provider shall mail the written request for administrative review to:

Department of Economic Security

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Child Care Administration

Program Administrator

P.O. Box 6123 S.C. 801A

Phoenix, Arizona 85005

G. In the written request, the provider shall include the reason for requesting an administrative review and any documentation supporting the reinstatement request.

H. A request for an administrative review is timely if:

1. The Department receives it within the 15-day appeal period in subsection (E); or
2. The envelope in which the request was mailed is postmarked or postage-meter marked within the period in subsection (E).

I. The Program Administrator or designee shall review the Department's decision and all documentation submitted by the provider.

J. The Program Administrator or designee shall notify the provider and the Contractor of the results of the administrative review within 15 work days from the date the Department receives the request for review.

1. The decision shall be in writing and mailed to the provider's last known address. The date on the decision is presumed to be the mailing date.
2. The decision shall include information about the provider's right to further appeal.

K. The provider may appeal the Department's decision under R6-5-5010.

A.A.C. R6-5-5010

R6-5-5010. Administrative Appeal Process

A. A provider may appeal the Department's administrative review decision under 6 A.A.C. 5, Article 75 by filing a request for an appeal with the Department within 15 work days after the mailing date of the Department's administrative review decision described in R6-5-5009(J).

B. A provider shall mail the written request for an appeal to:

Department of Economic Security

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Child Care Administration

Program Administrator

P.O. Box 6123 S.C. 801A

Phoenix, Arizona 85005

C. In the written request, the provider shall include the reason for requesting an appeal and any documentation supporting the request.

D. The Department's actions in reference to removal or exclusion from the database or changes in listing status are not appealable under this Article if the action is based on:

1. Failure to clear a fingerprint or criminal background check; or
2. Failure to clear a Child Protective Services background check

E. A request for an appeal is timely if:

1. The Department receives it within the 15-day appeal period in subsection (A); or
2. The envelope in which the request is mailed is postmarked or postage-meter marked within the 15-day period prescribed in subsection (A).