

Ga. Code Ann., § 20-1A-1

§ 20-1A-1. Creation of department; successor to Office of School Readiness; separate budget unit

The Department of Early Care and Learning is created as a department of the executive branch of state government and shall have the duties, responsibilities, functions, powers, and authority set forth in this chapter and otherwise provided by law. The Department of Early Care and Learning is the successor to the Office of School Readiness and shall have the duties, responsibilities, functions, powers, authority, employees, office equipment, furniture, and other assets formerly held by the Office of School Readiness. The Department of Early Care and Learning shall be a separate budget unit.

Ga. Code Ann., § 20-1A-2

§ 20-1A-2. Definitions

Effective: July 1, 2013

As used in this chapter, the term:

(1) "Board" means the Board of Early Care and Learning.

(2) "Child care learning center" means any place operated by a person, society, agency, corporation, institution, or group wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, 19 or more children under 18 years of age; provided, however, that this term shall not include a private school which provides kindergarten through grade 12 education, meets the requirements of Code Section 20-2-690, and is accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519 and which provides care before, after, or both before and after the customary school day to its students as an auxiliary service to such students during the regular school year only.

(3) "Commissioner" means the commissioner of early care and learning.

(4) "Department" means the Department of Early Care and Learning.

(5) "Early care and education programs" include all family day-care homes, group day-care homes, and child care learning centers, regardless of whether such homes or centers offer education.

(6) "Early childhood" means the period of childhood from birth to age six.

(7) "Family day-care home" means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six children under 13 years of age who are not related to such person and whose parents or guardians are not residents in the same private residence; provided, however, that the total number of unrelated children cared for in such home, for pay and not for pay, may not exceed six children under 13 years of age at one time.

(8) "Group day-care home" means any place operated by any person or group wherein are received for pay not less than seven nor more than 18 children under 18 years of age for care and supervision for less than 24 hours per

day.

Ga. Code Ann., § 20-1A-3

§ 20-1A-3. Board of Early Care and Learning; creation; commissioner; membership; chairperson; powers and duties

Effective: July 1, 2013

(a) There is created a Board of Early Care and Learning and a commissioner of early care and learning.

(b) The board shall consist of one member from each congressional district appointed by the Governor. In as far as it is practical, the members of the board shall be representative of all areas and functions encompassed within the early childhood care and education community. In appointing members to their initial terms, the Governor shall designate five members for two-year terms, four members for three-year terms, and four members for five-year terms. Subsequent appointments shall be for five-year terms. Members shall serve until their successors are appointed. In the event of a vacancy on the board for any reason other than expiration of a term, the Governor shall appoint a person from the same congressional district to fill the vacancy for the unexpired term.

(c) The board shall elect from its members a chairperson and such other officers as the board considers necessary. The board shall adopt bylaws for the conduct of its activities. The members of the board shall receive per diem and expense reimbursement as shall be determined and approved by the Office of Planning and Budget in conformity with rates and allowances determined for members of other state boards.

(d) The board shall determine policies and promulgate rules and regulations for the operation of the department including:

(1) Functions formerly performed by the Office of School Readiness, including, but not limited to, Even Start;

(2) Functions transferred to the department from the Department of Human Resources (now known as the Department of Human Services) relating to day-care centers (now known as child care learning centers), group day-care homes, family day-care homes, and other functions as agreed upon by the department and the Department of Human Resources (now known as the Department of Human Services) in accordance with Code Section 20-1A-8;

(3) Functions transferred to the department from the Georgia Child Care Council pursuant to Code Section 20-1A-63; and

(4) Functions relating to early childhood education programs transferred from the Department of Education by agreement in accordance with Code Section 20-1A-17.

(e) The board shall oversee the budget of the department and shall submit an annual request for funding to the Office of Planning and Budget in accordance with Code Section 45-12-78.

(f) The commissioner shall be the chief administrative and executive officer of the department. The commissioner shall be appointed by and serve at the pleasure of the Governor. The commissioner shall be in the unclassified

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

service as defined by Code Section 45-20-2 and shall receive a salary to be determined by the Governor.

(g) The commissioner shall have the authority to employ all personnel of the department, subject to the provisions of this chapter, all applicable provisions of other laws governing public employment, and the policies, procedures, rules, and regulations of the board.

Ga. Code Ann., § 20-1A-4

§ 20-1A-4. Powers and duties of department

Effective: July 1, 2013

The Department of Early Care and Learning shall have the following powers and duties:

(1) To administer such programs and services as may be necessary for the operation and management of voluntary pre-kindergarten, which shall be known as “Georgia’s Pre-K Program”;

(2) To administer such programs and services as may be necessary for the operation and management of preschool and child development programs, such as Even Start and child care regulation and food programs;

(3) To act as the agent of the federal government in conformity with this chapter and the administration of any federal funds granted to the state to aid in the furtherance of any functions of the department;

(4) To assist local units of administration in this state so as to assure the proliferation of services under this chapter;

(5) To regulate early care and education programs in accordance with this chapter;

(6) To perform the functions set out in Code Section 20-1A-64, relating to improvement of the quality, availability, and affordability of child care in this state;

(7) To serve as the Head Start state collaboration office;

(8) To establish and collect annual fees for licensure, registration, or commission of early care and education programs. Such fees so established shall be reasonable and shall be determined in such a manner that the total amount of fees established shall help defray the direct and indirect costs to the department in performing such function. The department shall remit all fees collected to the general fund of the state;

(9) To recommend in writing to the owner of any early care and learning program licensed by the department that such program carry liability insurance coverage sufficient to protect its clients. Any such program which after receiving such recommendation is not covered by liability insurance shall post that fact in a conspicuous place in the program and shall notify the parent or guardian of each child under the care of the program in writing. Such notice shall be in at least 1/2 inch letters. Each such parent or guardian must acknowledge receipt of such notice in writing and a copy of such acknowledgment shall be maintained on file at the program at all times while the child attends the program and for 12 months after the child’s last date of attendance. Failure to do so may subject the owner of the program to a civil fine of \$1,000.00 for each such infraction;

(10) To administer any programs assigned to it administratively by the Governor pursuant to his or her powers or any programs for which the Governor designates the department as the lead agency in the state for a federal program;

(11) To perform any other functions as agreed upon between the department and the Department of Human Resources (now known as the Department of Human Services), pursuant to Code Section 20-1A-8;

(12) To perform any other functions as agreed upon between the department and the Department of Education, in accordance with Code Section 20-1A-17; and

(13) To exercise the powers reasonably necessary to accomplish the purposes of this chapter, including, but not limited to, contracting for services.

**Ga. Code Ann., § 20-1A-5**

**§ 20-1A-5. Rights of persons previously transferred to the Office of School Readiness**

This chapter shall not be construed to impair or affect the rights of persons previously transferred to the Office of School Readiness who were members of the Teachers Retirement System of Georgia created in Chapter 3 of Title 47 and who elected to continue membership in such retirement system in accordance with previous law.

**Ga. Code Ann., § 20-1A-6**

**§ 20-1A-6. Succession to rules, regulations, policies, procedures, orders**

The department shall succeed to all rules, regulations, policies, procedures, and pending and finalized administrative orders of the Office of School Readiness which are in effect on September 30, 2004. Such rules, regulations, policies, and procedures shall remain in effect until amended, repealed, superseded, or nullified by the board or commissioner, as applicable.

**Ga. Code Ann., § 20-1A-7**

**§ 20-1A-7. Printed materials**

Each newly printed publication, poster, banner, or sign created for the pre-kindergarten program by the department or a provider of pre-kindergarten services shall refer to the program as “Georgia’s Pre-K Program.”

**Ga. Code Ann., § 20-1A-8**

**§ 20-1A-8. Transfer of functions, powers, employees, and assets to department; rights of employees**

**Effective: July 1, 2012**

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(a) Effective October 1, 2004, the department shall carry out all of the functions and exercise all of the powers formerly held by the Department of Human Resources (now known as the Department of Human Services) for the regulation and licensure of early care and education programs and any other functions as agreed upon by the department and the Department of Human Resources. Subject to subsection (c) of this Code section, all persons employed by and positions authorized for the Department of Human Resources to perform functions relating to the licensure and certification of early care and education programs and any other functions as agreed upon by the department and the Department of Human Resources on September 30, 2004, shall on October 1, 2004, be transferred to the department. All office equipment, furniture, and other assets in possession of the Department of Human Resources which are used or held exclusively or principally by personnel transferred under this subsection shall be transferred to the department on October 1, 2004.

(b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child Care Council included in Code Section 20-1A-63, the department shall carry out the functions and exercise the powers formerly held by the Georgia Child Care Council under former Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section, all persons employed by and positions authorized for the Georgia Child Care Council to perform functions relating to the recommendation of measures to improve the quality, availability, and affordability of child care in this state on September 30, 2004, shall on October 1, 2004, be transferred to the department. All office equipment, furniture, and other assets in possession of the Georgia Child Care Council or the Department of Human Resources, (now known as the Department of Human Services) which are used or held exclusively or principally by personnel transferred under this subsection shall be transferred to the department on October 1, 2004.

(c) All transfers of employees and assets provided for in subsections (a) and (b) of this Code section shall be subject to the approval of the commissioner, and such personnel or assets shall not be transferred if the commissioner determines that a specific employee or asset should remain with the transferring agency.

(d) Employees of the department shall serve in the unclassified service as defined by Code Section 45-20-2. Persons who have transferred to the department pursuant to subsections (a) and (b) of this Code section who are in the classified service as defined by Code Section 45-20-2 at the time of the transfer may elect to remain in such classified service and be governed by the provisions thereof; provided, however, that if any such person accepts a promotion or transfers to another position, that person shall become an employee in the unclassified service.

(e) All rights, credits, and funds in the Employees' Retirement System of Georgia created in Chapter 2 of Title 47 which are possessed by state personnel transferred by provisions of this Code section to the department, or otherwise held by persons at the time of employment with the department, are continued and preserved, it being the intention of the General Assembly that such persons shall not lose any rights, credits, or funds to which they may be entitled prior to becoming employees of the department. No employment benefit of any employee transferring to the department shall be impaired.

(f) Funding for functions and positions transferred to the department under this Code section shall be transferred as provided in Code Section 45-12-90.

**Ga. Code Ann., § 20-1A-9**

**§ 20-1A-9. Day-care centers, group day-care homes; succession to rights and responsibilities**

**Effective: July 1, 2013**

The department shall succeed to all rights and responsibilities relating to licensure and regulation of day-care centers (now known as child care learning centers), group day-care homes, and family day-care homes, including such rules, regulations, policies, procedures, and pending and finalized administrative orders of the Department of Human

Resources (now known as the Department of Human Services), the Georgia Child Care Council, and the Office of State Administrative Hearings, where applicable, which are in effect on September 30, 2004, and which relate to the functions transferred to the department pursuant to Code Section 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law, procedures, and orders shall remain in effect until amended, repealed, superseded, or nullified by the commissioner. Such rules, regulations, and policies shall remain in effect until amended, repealed, superseded, or nullified by the board.

Ga. Code Ann., § 20-1A-10

§ 20-1A-10. Early care and education programs; license, commission, or registration requirements; rules and regulations; inspections; penalties

Effective: July 1, 2013

(a) The department is authorized and empowered to establish, maintain, extend, and improve throughout the state, within the limits of funds appropriated for such purposes, the regulation of early care and education programs by providing consultation and making recommendations concerning establishment and implementation of such programs and by licensing and inspecting periodically all such programs to ensure their adherence to this chapter and rules and regulations promulgated by the board.

(b) Child care learning centers operated as part of a local church ministry or a nonprofit religious school or a nonprofit religious charitable organization may notify the department annually and be commissioned in lieu of being licensed upon request for commission. Commissioned child care learning centers shall operate in accordance with the same procedures, standards, rules, and regulations which are established by the board for the operation of licensed child care learning centers. Any child care learning center operated as part of a local church ministry or a nonprofit religious school or a nonprofit religious charitable organization may elect to apply for a commission as provided for in subsection (c) of this Code section.

(c) All early care and education programs shall be licensed or commissioned annually by the department in accordance with procedures, standards, rules, and regulations to be established by the board; provided, however, that the department may require persons who operate family day-care homes to register with the department.

(d) The department shall publish in print or electronically and make available to early care and education programs and interested persons a list of guidelines for quality child care.

(e) After an early care and education program has been licensed, commissioned, or registered by the department as provided in this chapter, the program shall not be required to have a permit to operate a food service establishment as required in Code Section 26-2-371, provided that rules and regulations for food service have been incorporated in the regulations for licensing, commissioning, or registering such programs.

(f) The department shall not be authorized to prescribe, question, or regulate the specific content of educational curriculum taught by an early care and education program, except to the extent that a program operates Georgia's Pre-K Program or any other voluntary educational program administered by the department.

(g) Persons who operate early care and education programs shall be required to post in a conspicuous place next to telephones in the home or center the telephone numbers of the nearest or applicable providers of emergency medical, police, and fire services.

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(h) Persons who operate early care and education programs shall post signs prohibiting smoking to carry out the purposes of Chapter 12A of Title 31.

(i) Group day-care homes and child care learning centers shall provide a minimum of 35 square feet of usable space consisting of indoor play areas, rest areas, and dining facilities for each child present in the facility. Child care learning centers will be allowed to designate in writing to the department two one-hour periods daily during which 25 square feet of usable space per child for children aged three years and older may be provided. Notwithstanding the limitation to 18 children prescribed in Code Section 20-1A-2, group day-care homes will be allowed to designate in writing to the department two one-hour periods daily during which 25 square feet of usable space per child for children aged three years and older may be provided. Notwithstanding the limitation to six children prescribed in Code Section 20-1A-2, a family day-care home operator may care for two additional children aged three years and older for two designated one-hour periods daily. Notwithstanding the provisions of this subsection, all other applicable rules and regulations shall apply.

(j) The department shall assist applicants, licensees, registrants, or persons holding commissions in meeting rules and regulations of the department for early care and education programs.

(k)(1) Application for a license, commission, or registration for an early care and education program shall be made to the department upon forms furnished by the department. Upon receipt of an application for a license, registration, or commission and upon presentation by the applicant of evidence that the early care and education program meets the rules and regulations prescribed by the department, the department shall issue such early care and education program a license, registration, or commission for a one-year period.

(2) On and after May 12, 2010, the following annual fees shall apply to applications for licensure, registration, or commission as a child care learning center, group day-care home, or family day-care home:

(A) Capacity of fewer than 25 children.....	\$ 50.00
(B) Capacity of 26 to 50 children.....	100.00
(C) Capacity of 51 to 100 children .....	150.00
(D) Capacity of 101 to 200 children.....	200.00
(E) Capacity of more than 200 children.....	250.00"

(l) If the department finds that any early care and education program applicant does not meet rules and regulations prescribed by the department but is attempting to meet such rules and regulations, the department may, in its discretion, issue a temporary license, registration, or commission to such early care and education program, but such temporary license, registration, or commission shall not be issued for more than a one-year period. Upon presentation of satisfactory evidence that such program is making progress toward meeting prescribed rules and regulations of the department, the department may, in its discretion, reissue such temporary license, registration, or commission for one additional period not to exceed one year. As an alternative to a temporary license, registration, or commission, the department, in its discretion, may issue a restricted license, registration, or commission which states the restrictions on its face.

(m) The department shall refuse to issue a license, registration, or commission upon a showing of:

(1) Noncompliance with the rules and regulations for family day-care homes, group day-care homes, or child care learning centers which are designated in writing to the facilities as being related to children's health and safety;

(2) Flagrant and continued operation of an unlicensed, unregistered, or uncommissioned facility in contravention of the law;

(3) Prior license, registration, or commission denial or revocation within one year of application; or

(4) Failure to pay the annual fee for licensure, registration, or commission of early care and education programs.

(n) All licensed, registered, or commissioned early care and education programs shall prominently display the license, registration, or commission issued to such program by the department at some point near the entrance of the premises of such program that is open to view by the public.

(o) The department's action revoking or refusing to renew or issue a license, registration, or commission required by this Code section shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," except that only 30 days' notice in writing from the commissioner's designee shall be required prior to license, registration, or commission revocation and except that hearings held relating to such action by the department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

(p) It shall be the duty of the department to inspect at regular intervals all licensed, registered, or commissioned early care and education programs within the state. The department shall have right of entrance, privilege of inspection, and right of access to all children under the care and control of the licensee, registrant, or commissionee.

(q) If any flagrant abuses, derelictions, or deficiencies are made known to the department or its duly authorized agents during their inspection of any early care and education program or if, at any time, such are reported to the department, the department shall immediately investigate such matters and take such action as conditions may require.

(r) If abuses, derelictions, or deficiencies are found in the operation and management of any early care and education program, including failure to pay the annual fee for licensure, registration, or commission, they shall be brought immediately to the attention of the management of such program; and if correctable, but not corrected within a reasonable time, the department shall revoke the license, registration, or commission of such program in the manner prescribed in this Code section.

(s) The department may require periodic reports from early care and education programs in such forms and at such times as the department may prescribe.

(t) Any person who shall operate an early care and education program without a license, registration, or commission issued by the department shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

of not less than \$50.00 nor more than \$200.00 for each such offense. Each day of operation without a license, registration, or commission shall constitute a separate offense.

(u) The department may, without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of an early care and education program without a license, registration, or commission or the continued operation of an early care and education program in willful violation of this chapter or of any regulation of the department or of any order of the department.

(v) The term “licensed child care learning center” shall include a commissioned child care learning center and any references in this Code to a licensed child care learning center, including criminal, administrative, and civil provisions applicable to licensed child care learning centers, shall include and apply to commissioned child care learning centers unless otherwise provided in this Code section.

**Ga. Code Ann., § 20-1A-10.1**

**§ 20-1A-10.1. Contested case**

**Effective: July 1, 2013**

A determination by the department regarding payments and eligibility pursuant to any federal program or grant shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

**Ga. Code Ann., § 20-1A-11**

**§ 20-1A-11. Penalties for violations; notice**

**Effective: May 1, 2012**

(a) Any person who violates the provisions of Code Section 20-1A-10 or who hinders, obstructs, or otherwise interferes with any representative of the department in the discharge of that person’s official duties in making inspections as provided in such Code section or in investigating complaints as provided in such Code section shall be guilty of a misdemeanor.

(b)(1) Any person who:

(A) Violates any licensing, commissioning, or registration provision of this chapter or any rule, regulation, or order issued under this chapter or any term, condition, or limitation of any license, commission, or registration certificate under this chapter thereby subjecting a child in care to injury or a life-threatening situation; or

(B) Commits any violation for which a license, commission, or registration certificate may be revoked under rules or regulations issued pursuant to this chapter

may be subject to a civil penalty, to be imposed by the department, not to exceed \$500.00. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(2) Whenever the department proposes to subject a person to the imposition of a civil penalty under this subsection, it shall notify such person in writing:

(A) Setting forth the date, facts, and nature of each act or omission with which the person is charged;

(B) Specifically identifying the particular provision or provisions of the Code section, rule, regulation, order, license, commission, or registration certificate involved in the violation; and

(C) Advising of each penalty which the department proposes to impose and its amount.

Such written notice shall be sent by registered or certified mail or statutory overnight delivery by the department to the last known address of such person. The person so notified shall be granted an opportunity to show in writing, within such reasonable period as the department shall by rule or regulation prescribe, why such penalty should not be imposed. The notice shall also advise such person that, upon failure to pay the civil penalty subsequently determined by the department, if any, the penalty may be collected by civil action. Any person upon whom a civil penalty is imposed may appeal such action pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(3) A civil penalty finally determined under this Code section may be collected by civil action in the event that such penalty is not paid as required. On the request of the department, the Attorney General is authorized to institute a civil action to collect a penalty imposed pursuant to this subsection. The Attorney General shall have the exclusive power to compromise, mitigate, or remit such civil penalties as are referred to the Attorney General for collection.

(4) All moneys collected from civil penalties shall be paid to the state for deposit in the general fund.

**Ga. Code Ann., § 20-1A-12**

**§ 20-1A-12. Enforcement actions; grounds; remedies; investigations; assessments of expenses**

**Effective: May 13, 2011**

(a) This Code section shall be applicable to any early care and education program which is subject to regulation by the department in accordance with this chapter. For purposes of this Code section, the term "license" shall be used to refer to any license, registration, or commission issued by the department pursuant to the provisions of this chapter.

(b) The department shall have the authority to take any of the actions enumerated in subsection (c) of this Code section upon a finding that the applicant or holder of a license has:

(1) Knowingly made any false statement of material information in connection with the application for a license, or in statements made or on documents submitted to the department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the early care and education program;

(2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the program;

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(3) Failed to comply with the licensing requirements of this state;

(4) Failed to pay the annual fee for licensure, registration, or commission of early care and education programs; or

(5) Failed to comply with any provisions of this Code section.

(c) When the department finds that any applicant or holder of a license has violated any provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders related to the initial or continued licensing of the program, the department, subject to notice and opportunity for hearing, may take any of the following actions:

(1) Refuse to grant a license; provided, however, that the department may refuse to grant a license without holding a hearing prior to taking such action;

(2) Administer a public reprimand;

(3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;

(4) Prohibit any applicant or holder of a license from allowing a person who previously was involved in the management or control, as defined by rule, of any program which has had its license revoked or denied within the past 12 months to be involved in the management or control of such program;

(5) Revoke any license;

(6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$500.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of any program;

(7) Impose a late fee of up to \$250.00 for failure of an early care and education program to pay the annual fee for licensure, registration, or commission within 30 days of the due date as established by the department; or

(8) Limit or restrict any license as the department deems necessary for the protection of the public, including, but not limited to, restricting some or all services of or admissions into a program for a time certain.

In taking any of the actions enumerated in this subsection, the department shall consider the seriousness of the violation, including the circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public.

(d) The department may deny a license or otherwise restrict a license for any applicant who has had a license denied, revoked, or suspended within one year of the date of an application or who has transferred ownership or governing authority of a program subject to regulation by the department within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license.

(e) With regard to any contested case instituted by the department pursuant to this Code section or other provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action, the department may, in its discretion, dispose of the action so instituted by settlement. In such cases, all parties, successors, and assigns to any

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

settlement agreement shall be bound by the terms specified in such agreement and violation of such agreement thereof by any applicant or holder of a license shall constitute grounds for any action enumerated in subsection (c) of this Code section.

(f) The department shall have the authority to make public or private investigations or examinations inside or outside of this state to determine whether the provisions of this Code section or any other law, rule, regulation, or formal order relating to the licensing of a program has been violated. Such investigations may be initiated at any time, in the discretion of the department, and may continue during the pendency of any action initiated by the department pursuant to subsection (c) of this Code section.

(g) For the purpose of conducting any investigation, inspection, or survey, the department shall have the authority to require the production of any books, records, papers, or other information related to the initial or continued licensing of any program.

(h) Pursuant to the investigation, inspection, and enforcement powers given to the department by this Code section and other applicable laws, the department may assess against a program reasonable and necessary expenses incurred by the department pursuant to any administrative or legal action required by the failure of the program to fully comply with the provisions of any law, rule, regulation, or formal order related to the initial or continued licensing. Assessments shall not include attorney's fees and expenses of litigation, shall not exceed other actual expenses, and shall only be assessed if such investigations, inspections, or enforcement actions result in adverse findings, as finally determined by the department, pursuant to administrative or legal action.

(i) For any action taken or any proceeding held under this Code section or under color of law, except for gross negligence or willful or wanton misconduct, the department, when acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

(j) In an administrative or legal proceeding under this Code section, a person or entity claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

(k) This Code section and all actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(l) The provisions of this Code section shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Code section limits such grounds or actions, those other provisions shall apply.

(m) The board is authorized to promulgate rules and regulations to implement the provisions of this Code section.

**Ga. Code Ann., § 20-1A-13**

**§ 20-1A-13. Emergency placement of monitors; emergency orders; preliminary hearings**

**Effective: July 1, 2011**

(a) As used in this Code section, the term:

Current through March 13, 2014

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(1) "Emergency order" or "order" means a written directive by the commissioner or the commissioner's designee placing a monitor in an early care and education program or providing notice of intended emergency closure of an early care and education program.

(2) "Monitor" means a person designated by the department to remain on site in a program as an agent of the department, observing conditions.

(3) "Preliminary hearing" means a hearing held by the Office of State Administrative Hearings as soon as possible after the order is entered at the request of a program which has been affected by an emergency order placing a monitor in the program or upon notice of intended emergency closure of a program in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(b)(1) The commissioner or his or her designee may order the emergency placement of a monitor or monitors in an early care and education program upon a finding that rules and regulations of the department are being violated which threaten the health, safety, or welfare of children in the care of the program and when one or more of the following conditions are present:

(A) The program is operating without a license, commission, or registration;

(B) The department has denied application for license, registration, or commission or has initiated action to revoke the existing license, registration, or commission of the program; or

(C) Children are suspected of being subjected to injury or life-threatening situations or the health or safety of a child or children is in danger.

(2) A monitor may be placed in a program for no more than ten consecutive calendar days, during which time the monitor shall observe conditions and regulatory compliance with any recommended remedial action of the department. Upon expiration of the ten-day period, should the conditions warrant, the initial ten-day period may be extended for an additional ten-day period. The monitor shall report to the department. The monitor shall not assume any administrative or child-caring responsibility within the program, nor shall the monitor be liable for any actions of the program. The salary and related costs and travel and subsistence allowance as defined by department policy of placing a monitor in a program shall be reimbursed to the department by the program, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the cost shall be paid by the department.

(c)(1) The commissioner or his or her designee may issue an order providing notice of intended emergency closure of an early care and education program:

(A) Upon the death of a minor at such program, unless such death was medically anticipated or no serious rule violations related to the death by the program were determined by the department; or

(B) Where a child's safety or welfare is in imminent danger.

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(2) If a preliminary hearing is not requested pursuant to subsection (f) of this Code section, the commissioner shall immediately close such program for a period of not more than 21 days. If a preliminary hearing is requested pursuant to subsection (f) of this Code section, the commissioner may place a monitor in the program until the Office of State Administrative Hearings issues a decision, which shall be considered the final decision of the agency, on the emergency closure. If the Office of State Administrative Hearings finds that the emergency closure is warranted, the commissioner shall immediately close such program for a period of not more than 21 days. If the Office of State Administrative Hearings finds that the emergency closure is not warranted, the commissioner shall not order the emergency closure of the program, but may continue investigating the incident and may place a monitor in the program in accordance with this Code section.

(3) Upon a closure, the program shall be required to immediately notify the parent or guardian of each child enrolled in the program. Upon a closure, the commissioner or his or her designee shall immediately conduct a review into the circumstances of the minor's death or the circumstances where a child's safety or welfare is in imminent danger. If the commissioner determines that the program where such minor's death occurred or where imminent danger exists fails to meet the specifications and requirements of this chapter, the commissioner shall immediately revoke such program's license in accordance with subsection (o) of Code Section 20-1A-10. The program shall have the right to appeal the revocation in accordance with subsection (o) of Code Section 20-1A-10; provided, however, that the program shall remain closed until the appeal decision is issued. If the commissioner determines that the administration or conditions of the program were not the cause of the minor's death or that a child's safety and welfare is not in imminent danger or if the department has not issued a revocation notice within the initial closure period, the commissioner shall immediately reopen the program for its continued operation.

(d) An emergency order shall contain the following:

- (1) The scope of the order;
- (2) The reasons for the issuance of the order;
- (3) The effective date of the order if other than the date the order is issued;
- (4) The person to whom questions regarding the order are to be addressed; and
- (5) Notice of the right to a preliminary hearing.

(e) Unless otherwise provided in the order, an emergency order shall become effective upon its service. Service of an emergency order may be made upon the owner of the facility, the director of the facility, or any other agent, employee, or person in charge of the facility at the time of the service of the order.

(f) A request for a preliminary hearing shall be made in writing within 48 hours from the time of service, excepting weekends. The request shall be made to the representative of the department designated in the order and may be made in person, by facsimile, by e-mail, or by any other means designated in the order.

(g) Upon receipt of a request for a preliminary hearing, the department shall immediately forward the request to the Office of State Administrative Hearings, which shall set and give notice of the date, time, and location of the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefor but in no event later than 48 hours after such request, provided that a program may request that such hearing be held earlier

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

and that in no event shall a hearing be held on a weekend or holiday.

(h) If a hearing is requested, the preliminary hearing shall consist of a review of all oral and written evidence introduced at the hearing and any arguments made. A recording shall be made of the hearing.

(i) The Office of State Administrative Hearings shall, where practicable, issue an immediate oral order and shall, in all instances, issue a written order within two business days after the close of the hearing.

(j) Pending final appeal of the validity of any emergency order issued as provided in this Code section, such emergency order shall remain in full effect until vacated or rescinded by the commissioner or the commissioner's designee.

(k) The department is not precluded from other actions permitted by other laws or regulations during the time an emergency order is in force.

**Ga. Code Ann., § 20-1A-14**

**§ 20-1A-14. Variances and waivers**

(a) The department upon application or petition may grant variances and waivers to specific rules and regulations which establish standards for early care and education programs regulated by the department as follows:

(1) The department may authorize departure from the literal requirements of a rule or regulation by granting a variance upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application would cause undue hardship. The applicant or petitioner additionally must show that adequate standards affording protection of health, safety, and care exist and will be met in lieu of the exact requirements of the rule or regulation in question;

(2) The department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection of health, safety, and care;

(3) The department may grant waivers and variances to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery;

(4) Waivers or variances which affect an entire class of programs may only be approved by the board and shall be for a time certain, as determined by the board. A notice of the proposed variance or waiver affecting an entire class of programs shall be made in accordance with the requirements for notice of rule making in Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; or

(5) Variances or waivers which affect only one program in a class may be approved or denied by the department and shall be for a time certain, as determined by the department. The department shall maintain a record of such action and shall make this information available to the board and all other persons who request it.

(b) The department may exempt classes of programs from regulation when, in the department's judgment, regulation

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

would not permit the purpose intended or the class of programs is subject to similar requirements under other rules and regulations. Such exemptions shall be provided in rules and regulations promulgated by the board.

**Ga. Code Ann., § 20-1A-15**

**§ 20-1A-15. Inspection warrants; use of evidence**

(a) As used in this chapter, the term “inspection warrant” means a warrant authorizing a search or inspection of private property where such a search or inspection is one that is necessary for the enforcement of any of the provisions of laws authorizing licensure, inspection, or regulation by the department.

(b) The commissioner or the commissioner’s delegate, in addition to other procedures now or hereafter provided, may obtain an inspection warrant under the conditions specified in this Code section. Such warrant shall authorize the commissioner or the commissioner’s agents to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, if such search or inspection is one that is elsewhere authorized under the rules and regulations duly promulgated under this chapter or any provision of law which authorizes licensure, inspection, or regulation by the department.

(c) Inspection warrants shall be issued only by a judge of a court of record whose territorial jurisdiction encompasses the property to be inspected.

(d) The issuing judge shall issue the warrant when such judge is satisfied that the following conditions are met:

(1) The one seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property; and

(2) The issuing judge determines that the issuance of the warrant is authorized by this Code section.

(e) The inspection warrant shall be validly issued only if it meets the following requirements:

(1) The warrant is attached to the affidavit required to be made in order to obtain the warrant;

(2) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property of which the warrant authorizes an inspection;

(3) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal; and

(4) The warrant refers, in general terms, to the statutory or regulatory provisions sought to be enforced.

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(f) No facts discovered or evidence obtained in an inspection conducted under authority of an inspection warrant issued pursuant to this chapter shall be competent as evidence in any criminal proceeding against any party.

**Ga. Code Ann., § 20-1A-16**

**§ 20-1A-16. Duty of other state departments, agencies, officers, and employees**

It shall be the duty of all other state departments, agencies, officers, and employees to assure the most effective coordination and use of state resources, personnel, and facilities for the benefit of children and youths and to assist the department in effectuating the purposes of this chapter by making available to the department upon request of the board or commissioner and to the extent permissible by law the services, resources, personnel, and facilities of their respective departments and agencies.

**Ga. Code Ann., § 20-1A-17**

**§ 20-1A-17. Authorization to transfer early childhood programs from Department of Education**

The commissioner and the State School Superintendent, with the concurrence of the board for the department and the State Board of Education, are authorized to transfer programs relating to early childhood education from the Department of Education to the department, as long as such programs are not expressly assigned to the Department of Education by statute.

**Ga. Code Ann., § 20-1A-18**

**§ 20-1A-18. Educational information on influenza vaccine**

**Effective: July 1, 2012**

(a) Each early care and education program shall, by September 1 of each year, provide to the parent or guardian of each child enrolled in the program educational information on the influenza vaccine. Such information shall include, but not be limited to:

(1) The causes and symptoms of influenza and the means by which it is spread;

(2) The risks associated with influenza;

(3) The availability, effectiveness, and known contraindications of the influenza vaccine; and

(4) Related recommendations issued by the federal Centers for Disease Control and Prevention, including the recommended ages at which children receive the influenza vaccine.

(b) The failure on the part of an early care and education program to comply with the provisions of this Code section shall not subject such program to any civil or criminal liability.

(c) Nothing in this Code section shall be construed to require any early care and education program to provide or

pay for immunizations against influenza.

Ga. Code Ann., § 20-1A-30

§ 20-1A-30. Definitions

Effective: April 29, 2014

As used in this article, the term:

(1) “Center” means a group day-care home, family day-care home, or child care learning center which is allowed to operate or is required to be licensed, commissioned, or registered under Article 1 of this chapter.

(2) “Conviction” means a finding or verdict of guilty or a plea of guilty regardless of whether an appeal of the conviction has been sought.

(3) “Crime” means:

(A) Any felony;

(B) A violation of Code Section 16-5-23 when the victim is a minor;

(C) A violation of Code Section 16-5-23.1 when the victim is a minor;

(D) A violation of Code Section 16-12-1;

(E) A violation of Chapter 6 of Title 16;

(F) A violation of Code Section 16-4-1; or

(G) Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.

(4) “Criminal record” means:

(A) Conviction of a crime;

(B) Arrest, charge, and sentencing for a crime where:

(i) A plea of nolo contendere was entered to the charge;

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this division shall not apply to a violation of Chapter 13 of Title 16, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or

(iii) Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of Chapter 13 of Title 16, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or

(C) Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

(5) "Director" means the on-site manager of a facility designated by the legal owner who is responsible for the supervision, operation, and maintenance of the center and meets the minimum qualifications as determined by the department.

(6) "Employee" means any person, other than a director, who is 17 years of age or older and is employed by a center to perform at any of the center's facilities any duties which involve personal contact between that person and any child being cared for at the facility and also includes any adult person who resides at the facility or who, with or without compensation, performs duties for the center which involve personal contact between that person and any child being cared for by the center.

(7) "Employment history" means a record of where a person has worked for the past ten years.

(8) "Facility" means a center's real property at which children are received for care.

(9) "Fingerprint" means an inked fingerprint card or an electronic image of a person's fingerprint.

(10) "Fingerprint records check determination" means a satisfactory or unsatisfactory determination by the department based upon fingerprint-based national criminal history record information.

(11) "GCIC" means the Georgia Crime Information Center established under Article 2 of Chapter 3 of Title 35.

(12) "GCIC information" means criminal history record information, as defined in Code Section 35-3-30.

(13) "License" means the document issued by the department to authorize the center to which it is issued to operate a facility.

(14) "Preliminary records check determination" means a satisfactory or unsatisfactory determination by the director based only upon a comparison of GCIC information obtained solely from a law enforcement agency within the state with other than fingerprint information regarding the person upon whom the records check is being performed for purposes of this article.

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

(15) "Provisional employee" means an individual other than a director whose duties involve personal contact between that person and any child being cared for at the facility and who is hired for a limited period of employment.

(16) "Records check application" means a document created by the department to be completed, notarized, and submitted to the department by every actual and potential director and employee that indicates such director's name, center type, and such other information as the department deems appropriate and which authorizes the department to receive and render a fingerprint records check determination pursuant to any criminal history record information pertaining to such individual from any local, state, or national criminal justice or law enforcement agency.

(17) "Satisfactory determination" means a written declaration that a person for whom a preliminary or fingerprint records check determination was performed was found to have no criminal record.

(18) "Unsatisfactory determination" means a written declaration that a person for whom a preliminary or fingerprint records check determination was performed was found to have a criminal record.

**Ga. Code Ann., § 20-1A-31**

**§ 20-1A-31. Separate license and director for each facility**

**Effective: January 1, 2014**

(a) Each center shall be required to obtain a separate license for each facility and shall have a separate director for each facility.

(b) An applicant for a new license shall apply for a separate license for each new facility in this state owned or operated by that applicant and shall have a separate director for each such facility.

**Ga. Code Ann., § 20-1A-32**

**§ 20-1A-32. Record check applications for director and employees of new facilities**

**Effective: January 1, 2014**

Effective January 1, 2014, accompanying any application for a new license for a facility, the applicant shall furnish to the department a records check application for the director and each employee. In lieu of such records check applications, the license applicant may submit evidence, satisfactory to the department, that within the immediately preceding 12 months the director or employee received a satisfactory fingerprint records check determination, or that any director or employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. Either the department or the appropriate law enforcement agencies may charge reasonable and additional processing fees for performing fingerprint records checks as required by statute, regulation, or policy or by GCIC.

**Ga. Code Ann., § 20-1A-33**

**§ 20-1A-33. Notification of fingerprint records check; issuance of license**

**Effective: January 1, 2014**

After being furnished the required records check application under Code Section 20-1A-32, the department shall notify the license applicant and the fingerprint records check applicant in writing whether the department's determination as to a director or employee is satisfactory or unsatisfactory. If the fingerprint records check determination was satisfactory as to the director and each employee of a license applicant's facility, that applicant may be issued a license for that facility if the applicant otherwise qualifies for a license under Article 1 of this chapter. If the fingerprint records check for a director or any employee revealed a criminal record, such director or employee shall not be allowed to work in the center while any child is present until he or she either has obtained a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The department shall revoke the license of a center if the center fails to comply with the requirements of this Code section.

**Ga. Code Ann., § 20-1A-34**

**§ 20-1A-34. Fingerprint records check**

**Effective: January 1, 2014**

(a) The department shall transmit to GCIC both sets of fingerprints and the records search fee from each fingerprint records check application. Upon receipt thereof, GCIC shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search of its records and records to which it has access. Within ten days after receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the department in writing of any derogatory finding, including but not limited to any criminal record, of the state fingerprint records check or if there is no such finding. After a search of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's report, the department shall make a national fingerprint records check determination.

(b) Every potential employee of the department who may have any reason to be present at a center while any child is present for care must receive a satisfactory fingerprint records check determination or have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43 prior to employment. Every current employee of the department who may have any reason to be present at a center while any child is present for care must receive a satisfactory fingerprint records check determination or have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43 by January 1, 2014. Every employee of the department shall undergo additional fingerprint records checks such that the time between such additional fingerprint records checks and that employee's previous fingerprint records check shall not exceed five years. The department shall maintain documentation in the appropriate personnel file indicating that such person has obtained such current satisfactory fingerprint records check determination or has had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43.

**Ga. Code Ann., § 20-1A-35**

**§ 20-1A-35. Preliminary records check for provisional employee**

**Effective: January 1, 2014**

Where there is need for a provisional employee to work at a center's facility, such center may utilize an individual as a provisional employee only after the director reviews a preliminary records check and makes a satisfactory determination in accordance with this article. No such provisional employee shall be present in the facility while any child is present for care until such satisfactory preliminary records check determination has been made based upon GCIC information obtained from local law enforcement within the prior ten days. The board shall be authorized to define and enforce by regulations, including, but not limited to, the length of time a provisional employee may be

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

present at a facility without a fingerprint records check determination. The department may revoke the license of a center if the center fails to comply with the requirements of this Code section and employs a person with an unsatisfactory preliminary records check determination.

**Ga. Code Ann., § 20-1A-36**

**§ 20-1A-36. Employment of persons convicted of, or pleading guilty to, certain criminal offenses**

**Effective: January 1, 2014**

No facility operated as an early care and education program or similar facility or any operator of such a facility shall employ any person who has been convicted of or who has entered a plea of guilty or nolo contendere to any offense specified in Code Section 16-12-1.1 or allow any such person to reside at or be domiciled at such facility in violation of Code Section 16-12-1.1. The department shall either deny the issuance of or revoke the license, commission, or registration of any such facility violating the provisions of this Code section. The powers and duties set forth in this Code section are cumulative and not intended to limit the powers and duties set forth throughout this article.

**Ga. Code Ann., § 20-1A-37**

**§ 20-1A-37. Family day-care home**

**Effective: January 1, 2014**

Notwithstanding any other provision of this article, an individual who resides in a family day-care home, as defined by Code Section 20-1A-2, shall be required to provide a fingerprint records check application to the department. If the fingerprint records check determination is unsatisfactory, the department shall notify the provider and the employee of such determination in writing and no such employee shall be allowed to reside at the day-care home or be present at the day-care home when any child is present for care until he or she either has obtained a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43.

**Ga. Code Ann., § 20-1A-38**

**§ 20-1A-38. Procedure upon designation of new director**

**Effective: January 1, 2014**

(a) If the director of a facility ceases to be the director of that facility, the licensee shall thereupon designate a new director. After such change, the licensee of that facility shall notify the department in writing of such change and of any additional information the department may require regarding the newly designated director of that facility, including a fingerprint records check application. If the department determines that such newly designated director has had a satisfactory fingerprint records check determination or an unsatisfactory determination reversed pursuant to Code Section 20-1A-43 within the prior 12 months, such determination shall be deemed to be satisfactory for purposes of this article. The license of that facility shall not be adversely affected by that change in director, and the licensee shall be so notified.

(b) If the department determines under subsection (a) of this Code section that there has ever been an unsatisfactory preliminary or state or national fingerprint records check determination of the newly designated director which has not been legally reversed, the center and that director shall be so notified. The license for that director's facility shall

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

be indefinitely suspended or revoked unless the unsatisfactory determination as to that director is reversed in accordance with Code Section 20-1A-43 or the center designates another director pursuant to the provisions of this Code section relating to a change of director.

(c) If the department determines under subsection (a) of this Code section that there have been no satisfactory or legally reversed fingerprint records check determinations regarding the newly designated director within the immediately preceding 12 months, the department shall so notify the center. Upon such notification, the newly designated director shall follow the procedures for new directors as outlined in Code Section 20-1A-39, or the license of that facility shall be indefinitely suspended or revoked.

**Ga. Code Ann., § 20-1A-39**

**§ 20-1A-39. Fingerprint records check for employees of existing centers; additional fingerprint records check; violations**

**Effective: January 1, 2014**

(a) Before a person may become an employee of any center after that center has received a license, that center shall require that person to obtain a satisfactory fingerprint records check determination. The potential employee may submit evidence, satisfactory to the department, that within the immediately preceding 12 months the employee received a satisfactory fingerprint records check determination, or that any employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The center shall maintain documentation in the employee's personnel file, which is available to the department upon request, which reflects that a satisfactory fingerprint records check determination was received before the employee begins working with children. If the fingerprint records check determination for any potential employee reveals a criminal record of any kind, such potential employee shall not be allowed to begin working until such potential employee has either obtained a satisfactory fingerprint records check determination or has had the unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. If the fingerprint records check determination is unsatisfactory, the center shall, after receiving notification of such unsatisfactory determination, take such steps as are necessary so that such person is no longer an employee.

(b) By no later than January 1, 2017, every current employee and director of any center shall obtain either a satisfactory fingerprint records check determination or shall have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. The center shall maintain such documentation in the appropriate personnel file, which is available to the department immediately upon request. If the fingerprint records check determination is unsatisfactory, the center shall, after receiving notification of the determination, take such steps as are necessary so that such person is no longer an employee or director. The department shall revoke the license of a center if the center fails to comply with the requirements of this Code section.

(c) Effective January 1, 2019, every employee and director of any center shall undergo additional fingerprint records checks such that the time between such additional fingerprint records checks and that employee's or director's previous fingerprint records check shall not exceed five years. The center shall maintain documentation in the appropriate personnel file, which is available to the department immediately upon request, indicating that such person has obtained such current satisfactory fingerprint records check determination or has had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. The department shall revoke the license of a center if the center fails to comply with the requirements of this Code section.

(d) A license shall be subject to suspension or revocation and the department may refuse to issue a license if a director or employee does not undergo the fingerprint records check determination applicable to that director or

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

employee and receive acceptable determinations.

(e) After the issuance of a license, the department may require additional fingerprint records check determinations on any director or employee when the department has reason to believe the director or employee has a criminal record that renders the director or employee ineligible to have contact with children in the center, or during the course of a child abuse investigation involving the director or employee.

(f) No center may hire any person as an employee unless there is on file in the center an employment history and a satisfactory fingerprint records check determination or proof that an unsatisfactory determination has been reversed in accordance with Code Section 20-1A-43.

(g) A licensee or director of a facility having an employee whom such licensee or director knows or should reasonably know to have a criminal record that renders the employee ineligible to have contact with children in the center shall be guilty of a misdemeanor.

**Ga. Code Ann., § 20-1A-40**

**§ 20-1A-40. Cooperation of GCIC and law enforcement agencies; unlawful use of information**

**Effective: January 1, 2014**

(a) GCIC and law enforcement agencies which have access to GCIC information shall cooperate with the department in performing preliminary and fingerprint records check determinations required under this article and shall provide such information so required for such records checks notwithstanding any other law to the contrary and may charge reasonable fees therefor.

(b) Any person who knowingly and under false pretenses requests, obtains, or attempts to obtain GCIC information otherwise authorized to be obtained pursuant to this article, or who knowingly communicates or attempts to communicate such information obtained pursuant to this article to any person or entity except in accordance with this article, or who knowingly uses or attempts to use such information obtained pursuant to this article for any purpose other than as authorized by this article shall be fined not more than \$5,000.00, imprisoned for not more than two years, or both.

**Ga. Code Ann., § 20-1A-41**

**§ 20-1A-41. Immunity from liability**

**Effective: January 1, 2014**

(a) Neither GCIC, the department, any law enforcement agency, nor the employees of any such entities shall be responsible for the accuracy of information nor have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information or determination based thereon pursuant to this article.

(b) A center, its director, and its employees shall have no liability for defamation, invasion of privacy, or any other claim based upon good faith action thereby pursuant to the requirements of this article.

**Ga. Code Ann., § 20-1A-42**

**§ 20-1A-42. Article supplemental to other requirements**

**Effective: January 1, 2014**

The requirements of this article are supplemental to any requirements for a license imposed by Article 1 of this chapter.

**Ga. Code Ann., § 20-1A-43**

**§ 20-1A-43. Administrative review**

**Effective: January 1, 2014**

A determination by the department regarding preliminary or fingerprint records checks under this article, or any action by the department revoking, suspending, or refusing to grant or renew a license based upon such determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the department. It is expressly provided that upon motion from any party, the hearing officer may, in his or her discretion, consider matters in mitigation of any conviction, provided that the hearing officer examines the circumstances of the case and makes an independent finding that no physical harm was done to a victim and also examines the character and employment history since the conviction and determines that there is no propensity for cruel behavior or behavior involving moral turpitude on the part of the person making a motion for an exception to sanctions normally imposed. If the hearing officer deems a hearing to be appropriate, he or she shall also notify at least 30 days prior to such hearing the office of the prosecuting attorney who initiated the prosecution of the case in question in order to allow such prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license or employment as contemplated within this chapter. If objections are made, the hearing officer shall take such objections into consideration in considering the case.

**Ga. Code Ann., § 20-1A-44**

**§ 20-1A-44. Regulations**

**Effective: January 1, 2014**

The board is authorized to provide by regulation for the administration of this article.

**Ga. Code Ann., T. 20, Ch. 1A, Art. 3, Refs & Annos**

**Editors’ Notes**

**GENERAL NOTES**

<Laws 2004, Act 565, §§ 2, 3, and 15, effective October 1, 2004, redesignated former Article 11 of Chapter 5 of Title 49, consisting of §§ 49-5-240 to 49-5-244, as Article 3 of Chapter 1A of Title 20, consisting of §§ 20-1A-60 to 20-1A-64, as amended.>

**Ga. Code Ann., § 20-1A-60**

§ 20-1A-60. Definitions

Effective: July 1, 2009

As used in this article, the term:

(1) "Council" means the Georgia Child Care Council created pursuant to Code Section 20-1A-61.

(2) "Department" means the Department of Early Care and Learning.

(3) "Federal act" means the Child Care and Development Block Grant Act of 1990, pursuant to amendments to Chapter 8 of subtitle A of Title IV of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

(4) "Lead agency" means the Department of Human Services or any state agency designated by the Governor pursuant to the federal act and applicable regulations.

Ga. Code Ann., § 20-1A-61

§ 20-1A-61. Creation; membership; terms; vacancies; oath

Effective: July 1, 2013

(a) There is created the Georgia Child Care Council which shall consist of 20 members. Fourteen of those members shall be voting members appointed by the Governor and confirmed by the Senate, and two shall be voting members appointed as provided in paragraph (11) of this subsection. The 16 voting members shall be appointed as follows:

(1) Two members shall be representatives of local or state chambers of commerce;

(2) One member shall be a representative of the licensed or commissioned for profit child care businesses in the state;

(3) One member shall be a representative of the licensed or commissioned not for profit child care businesses in the state;

(4) One member shall be a representative from a public Pre-K provider;

(5) Four members shall be consumers of child care services or persons whose children are regularly placed in child care but who have no other business connection with any child care facility or business and at least one of them shall represent the interests of children with special needs and one shall represent the interests of school age children;

(6) One member shall represent registered family day-care homes;

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

- (7) One member shall represent licensed or commissioned church or synagogue child care learning centers;
- (8) One member shall be an expert or have special academic or research responsibilities in early childhood development;
- (9) One member shall represent a child care resource and referral agency;
- (10) One member shall represent a Head Start organization; and
- (11) Two members shall represent the general public and shall be appointed by the President of the Senate and the Speaker of the House of Representatives.

At the expiration of the original three-year terms of office of members of the council, successors to such members shall be appointed as follows: seven of the members appointed by the Governor shall serve for initial terms of one year and seven of such Governor appointed members shall serve for initial terms of three years; thereafter all members appointed by the Governor shall serve for terms of three years. Successors to those members appointed by the Speaker of the House of Representatives and the President of the Senate shall each serve for terms of three years. The remaining four nonvoting members shall be the State School Superintendent, the Commissioner of Labor, the commissioner of human services, and the commissioner of economic development, or the designee of the State School Superintendent, the Commissioner of Labor, the commissioner of human services, and the commissioner of economic development, all of whom shall be ex officio members.

- (b) The ex officio members of the council shall serve while holding their state offices.
- (c) Vacancies in the office of any appointive member of the council shall be filled for the remainder of the unexpired term by appointment by the Governor in the same manner as the appointment to the position on the council which becomes vacant, and the appointment shall be submitted to the Senate for confirmation at the next regular session of the General Assembly.
- (d) The Governor may remove any appointive member of the council for failure to attend meetings, neglect of duty, or incompetence.
- (e) Any appointive member of the council who, during such person's term of office, ceases to meet the qualifications for the original appointment or does not attend three or more successive meetings of the council shall forfeit such person's membership on the council.
- (f) Each member of the council shall take an oath of office before the Governor that he or she will faithfully perform the duties of office.

**Ga. Code Ann., § 20-1A-62**

**§ 20-1A-62. Organization; meetings; quorum; compensation**

- (a) The Governor shall annually appoint a chairperson and vice chairperson of the council to serve for one-year terms.
- (b) The council shall hold regular meetings at least once every calendar quarter and may not hold more than six

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

regular or special meetings during any calendar year. A special meeting may be called by the chairperson, the commissioner, or a majority of the members of the council. The council shall meet at such times and at such designated places in the state as it may determine. In addition to the notice of meetings required under Chapter 14 of Title 50, the council shall also provide written notice to the commissioner no later than 24 hours prior to the meeting.

(c) Nine members of the council shall constitute a quorum.

(d) The appointive members of the council shall receive the same allowances authorized for legislative members of interim legislative committees for each day of actual attendance at official meetings of the council. Ex officio members of the council shall receive no additional compensation for their services on the council but shall be reimbursed for expenses incurred by them in their performance of their duties as members of the council in the same manner as state employees are reimbursed for expenses.

**Ga. Code Ann., § 20-1A-63**

**§ 20-1A-63. Advice and recommendations of the council**

The council shall advise and make recommendations to the board and commissioner on the following:

- (1) Policy matters relating to early care and education programs;
- (2) Planning and coordination of child care programs at the state and local levels;
- (3) Measures to improve the quality, availability, and affordability of child care in this state;
- (4) Issues relating to the annual Georgia report on child care; and
- (5) General policy matters relating to functions performed or services provided by the department.

**Ga. Code Ann., § 20-1A-64**

**§ 20-1A-64. Duties of lead agency and department**

(a) The lead agency shall:

- (1) Provide to the department, under contract, an amount not less than the minimum percentage of the grant to the State of Georgia under the federal act, which must be expended for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality, availability, and affordability of child care. In addition to this minimum percentage, the lead agency shall also provide the amount of any additional funds, which exist on October 1, 2004, or which may exist in the future, which are required to be spent on activities relating to improving the quality of child care, including care for school age children;

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

- (2) In conjunction with the department, provide a mechanism for the planning and coordination of child care programs at the state and local levels;
  - (3) Recommend to the department measures to improve the quality, availability, and affordability of child care in this state;
  - (4) In conjunction with the department, inventory and monitor the disbursement and make recommendations as to the coordination of the disbursement of all state and federal funding streams that impact the supply, quality, and affordability of child care;
  - (5) In conjunction with the department, develop an annual Georgia child care plan which includes all identified revenue sources and, at a minimum, the requirements indicated in the federal act;
  - (6) Hold one or more public hearings, with state-wide publication of the notice of such hearings 30 days before the date of each hearing, to provide the public with an opportunity to comment on the provision of child care services under the annual Georgia child care plan, as required by the federal act;
  - (7) Develop reports that meet, at a minimum, the reporting requirements of the federal act;
  - (8) In conjunction with the department, recommend to the Governor and to the General Assembly policies, legislation, and funding that will promote the work of the lead agency and department and the realization of the Georgia child care plan to promote quality, affordable, and accessible child care for Georgia's children; and
  - (9) Develop a plan for application and distribution, including any necessary requests for proposals, in accordance with the Georgia child care plan, for federal block grant funds available to Georgia under the federal act.
- (b) The department shall, in accordance with the policies, rules, and regulations promulgated by the board:
- (1) In conjunction with the lead agency, provide a mechanism for the planning and coordination of child care programs at the state and local levels;
  - (2) Plan and implement activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, activities designed to improve the quality, availability, and affordability of child care, and other activities which meet the requirements of the federal act;
  - (3) Recommend to the lead agency measures to improve the quality, availability, and affordability of child care in this state;
  - (4) In conjunction with the lead agency, inventory and monitor the disbursement and make recommendations as to the coordination of the disbursement of all state and federal funding streams that impact the supply, quality, and affordability of child care funds expended by the department;
  - (5) Develop an annual Georgia report on child care, reporting child care statistics, and, in conjunction with the

Code of Georgia Annotated \_Title 20. Education \_Chapter 1A. Early Care and Learning (Refs & \_Annos) \_Article 1. General Provisions

lead agency, an evaluation of the state planning process related to quality initiatives;

(6) Serve as the state clearing-house for information on child care resources and statistics by working with the child care resource and referral agencies;

(7) Provide child care information to corporations and businesses seeking to locate in Georgia;

(8) Promote public-private sector collaboration for child care;

(9) Recommend to the Governor and to the General Assembly policies, legislation, and funding that will promote the work of the department and the realization of the Georgia child care plan and to promote quality, affordable, and accessible child care for Georgia's children;

(10) Promote consumer education to parents to help in the selection of child care, including the expansion of the child care resource and referral agencies; and

(11) Develop a plan for application and distribution, including any necessary requests for proposals, in accordance with the Georgia child care plan, for federal block grant funds available to Georgia under the federal act.