

M.G.L.A. Pt. I, T. II, Ch. 15D, Refs & Annos

<Chapter 15D of the General Laws was added by St.2004, c. 205, § 1.>

M.G.L.A. 15D § 1

**§ 1. Purpose**

Effective: July 31, 2008

It is hereby declared to be the policy of the commonwealth to assure every child a fair and full opportunity to reach his full potential by providing and encouraging services which maximize a child's capacity and opportunity to learn, which strengthen family life, and which support families in their essential function of nurturing a child's physical, social, educational, moral, and spiritual development.

M.G.L.A. 15D § 1A

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Red, &  
Orange

**§ 1A. Definitions**

Effective: July 31, 2008

As used in this chapter, the following words shall, unless the context requires otherwise, have the following meanings:-

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“Adoption”, the establishment of the legal relationship of parent and child pursuant to chapter 210.

“Board”, the board of early education and care.

“Child”, any person under the age of 18 or under the age of 22 if that person is a child with special needs.

“Child with special needs”, a child who, because of temporary or permanent disabilities arising from intellectual, sensory, emotional, physical, or environmental factors, or other specific learning disabilities, is or would be unable to progress effectively in a regular school program.

“Child care center”, a facility operated on a regular basis whether known as a child nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage under 7 years of age, or under 16 years of age if those children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Child care center shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of that system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization in which children are cared for during short periods of time while persons responsible for the children are attending religious services; a family child care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children

with or without compensation.

“Child of working parents”, a child of a 2-parent family in which both parents work either full-time or part-time, or a child of a single-parent family in which the parent works either full-time or part-time.

“Commissioner”, the commissioner of early education and care.

“Curriculum frameworks”, curriculum frameworks established under section 1E of chapter 69.

“Department”, the department of early education and care.

“Early education and care program”, a public or privately sponsored non-residential program, which provides for the care and education of school-aged children when not attending school, or infants, toddlers, or preschool children by someone other than members of the child’s family, and which involves and supports the child’s parents or guardians and is appropriate to the development of the child, including: in-home care, homemaker services, family child care homes, group child care homes, large family child care homes, full-day child care centers, part-day preschool programs and nursery schools, private kindergartens, mental health consultation and intervention programs, or temporary shelter care programs and programs which offer night care.

“Family child care home”, a private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under 7 years of age, or children under 16 years of age if those children have special needs, and receives for temporary custody and care for a limited number of hours children of school age under regulations adopted by the board. The total number of children under 16 in a family child care home shall not exceed 6, including participating children living in the residence. Family child care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation.

“Family child care system”, a person who, through contractual arrangement, provides to family child care homes, which have been approved as members of that system, central administrative functions including, but not limited to: training of operators of family child care homes; technical assistance and consultation to operators of family child care homes; inspection, supervision, monitoring and evaluation of family child care homes; referral of children to available family child care homes; and referral of children to available health and social services. Family child care system shall not mean a placement agency or a child care center.

“Family foster care”, substitute parental care in a family given in a private residence for up to 6 children under 18 years of age on a regular, 24-hour-a-day, residential basis by anyone other than a relative by blood or marriage, but the care may be provided for more than 6 children, provided that such placement is approved by the commissioner of the department of children and families, in order to place siblings in the same residence.

“Group care facility”, a facility which provides care and custody for 1 or more children under 18 years of age, on a regular, 24-hour-a-day, residential basis by anyone other than a relative by blood or marriage, notwithstanding that the care may include educational instruction. Private schools shall be considered group care facilities only if the schools provide special services to children with special needs. Group care facility shall not mean family foster care, a hospital, ward or comprehensive center licensed under section 19 of chapter 19, a hospital, ward or comprehensive center operated by the commonwealth or any subdivision thereof, a hospital, institution for unwed mothers, convalescent or nursing home, rest home, or infirmary licensed under chapter 111, or any facility operated under chapter 123. Group care facility shall not be limited to a facility defined as a group residence under the state building

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code.

“Large family child care home”, a private residence which, on a regular basis, receives for temporary custody and care during part, or all of the day, children under 7 years of age, or children under 16 years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours children of school age under regulations promulgated by the board, but the number of children under the age of 16 in a large family child care home shall not exceed 10, including participating children living in the residence. A large family child care home shall have at least 1 approved assistant when the total number of children participating in child care exceeds 6. Large family child care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation.

“Local early education and care council”, a locally directed council approved under guidelines adopted by the board and comprised of local representatives from public and non-public schools, community based providers of early education and care programs and services, families being served locally by the department, and other persons with experience in the care and education of young children or in the administration and support of early education and care programs and services.

“Massachusetts universal pre-kindergarten program”, the program of voluntary, universally accessible early education and care programs and services for preschool-aged children, established in section 13.

“Mixed system”, any person providing early education and care including, but not limited to, public, private, non-profit and for-profit preschools, child care centers, nursery schools, preschools operating within public and private schools, Head Start programs and independent and system affiliated family child care homes.

“Person”, an individual, partnership, corporation, association, organization or trust or any department, agency or institution of the federal government or of the commonwealth or any political subdivision thereof.

“Placement agency”, a department, agency or institution of the commonwealth, or any political subdivision thereof, or any organization incorporated under the laws of the commonwealth, 1 of whose principal purposes is providing custodial care and social services to children, which receives by agreement with a parent or guardian, by contract with a state agency or as a result of referral by a court of competent jurisdiction, any child under 18 years of age for placement in family foster care or a group care facility, except that for the purposes of adoption placement, a “placement agency” shall be a department, agency or institution of the commonwealth, or any political subdivision thereof, or any organization incorporated under chapter 180, 1 of whose principal purposes is providing custodial care and social services to children, which receives by agreement with a parent or guardian, by contract with a state agency or as a result of referral by a court of competent jurisdiction, any child under the age of 18 years of age for placement in adoption.

“Preschool-aged”, a person between the age of 2 years and 9 months and the age the person becomes eligible for kindergarten in the city or town wherein such person resides.

“Public preschool programs”, early education and care programs and services provided to preschool-aged children by public school districts organized under chapters 15, 69 and 71.

“Regional child care resource and referral agency”, a regionally-based organization which provides a range of services to promote access to high-quality early education and care for families and children.

“School-aged child care program”, a program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is not more than 14 years of age, or not more than 16 years of age if the child has special needs. Such a program may operate before and after school and may also operate during school vacation and holidays. It shall provide a planned daily program of activities that is attended by children for specifically identified blocks of time during the week, usually over a period of weeks or months. A school-aged child care program shall not include: a program operated by a public school system; a part of a private, organized educational system, unless the services of that system are primarily limited to a school-aged child care program; a Sunday school or classes for religious instruction conducted by a religious organization where the children are cared for during short periods of time while persons responsible for those children are attending religious services; a family child care home, except as provided under large family child care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

“Services”, developmental, preventative, protective, recreational, or rehabilitative services for children including, but not limited to, services to children with special needs, services to assist parents in child nurturing and family living, and information and referral services. These services may be delivered through public or privately funded non-residential programs.

“Temporary shelter facility”, a facility which operates to receive children under 18 years of age for temporary shelter during the day or night when those children request shelter, or when children are placed there by a placement agency, a law enforcement agency or a court with authority to make such placement. Temporary shelter facility shall not mean family foster care or a group care facility, a police station or a town lockup.

**M.G.L.A. 15D § 2**

**§ 2. Early education and care department; duties**

Effective: October 30, 2012

There shall be in the executive office of education a department of early education and care, in this chapter called the department, which shall be the state agency responsible for compliance with early education and care services under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193), or any successor federal statute. The department shall be the state education agency for the purposes of early education and care services under federal law. The department shall seek, apply for and encourage the use of any federal funds for early education and care services, and shall facilitate the coordination of federal, state, and local policies concerning early education and care. The department shall be under the supervision and management of the commissioner of early education and care, in this chapter called the commissioner.

The department shall:--

(a) be the lead agency of the commonwealth for administering and providing early education and care programs and services to children;

(b) provide early education and care programs and mental health consultation and other support services for children

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in the commonwealth through grants, contracting for those programs and services, and providing vouchers to participants, and promote the coordination of all such programs and services;

(c) license or approve child care centers, school-aged child care programs, family child care homes and large family child care homes, family foster care which is not supervised and approved by a placement agency, placement agencies, group care facilities, or temporary shelter facilities;

(d) develop and maintain a current consolidated waiting list for all subsidized early education and care programs, and services in the commonwealth;

(e) establish and develop a schedule for revising: (1) a rate structure for voucher and contracted payments to providers of subsidized early education and care programs and services on behalf of low-income and other at-risk children; and (2) a sliding fee scale for participants in those programs. A public hearing under chapter 30A and the approval of the board shall be required before the establishment or revision of the rate structure and sliding fee scale;

(f) manage and implement the Massachusetts universal pre-kindergarten program, established in section 13, that may be phased in over a period of time as determined by the board, and ensure the universal accessibility to the program by using the sliding fee scale developed for early education and care programs;

(g) after a public hearing, adopt criteria including income eligibility requirements, for determining eligibility for an early education and care program or service, including the universal pre-kindergarten program under this chapter and develop a schedule for revising such criteria. Income eligibility requirements shall include a maximum allowable income for working families;

(h) monitor and evaluate on an ongoing basis all early education and care programs and services, including program outcomes in meeting the developmental and educational needs of all children;

(i) analyze and evaluate all budget requests for early education and care programs and services, including requests from secretaries, departments, agencies, or other offices within the commonwealth and make recommendations to the secretary of education, general court, appropriate secretaries, departments, agencies, or other offices regarding coordination and approval of those budget requests;

(j) lease, purchase, hold and dispose of personal and real property it considers necessary to carry out this chapter;

(k) seek to increase the availability of early education and care programs and services and encourage all providers of those programs and services to work together to create an array of options allowing families to select programs that fit with their schedules;

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- (l) provide information and referral to persons seeking early education and care programs and services;
  
- (m) work in conjunction with the department of transitional assistance to obtain federal reimbursement under the federal Social Security Act for all participants in publicly-funded early education and care programs and services who are eligible;
  
- (n) promote the development of early education and care services for children by seeking and accepting federal grants as well as assisting other agencies of the commonwealth and local agencies to take full advantage of all federal funds available for those services;
  
- (o) provide technical assistance and consultation to providers and potential providers of early education and care services;
  
- (p) facilitate the development of the early education and care workforce, and, when appropriate, provide for training programs and professional development for persons offering early education and care programs and services;
  
- (q) establish and regularly update: (1) a comprehensive database of early childhood educators and providers, hereinafter referred to as the educator database, for the purpose of enhancing the workforce development system; and (2) a comprehensive database of children both waiting for and receiving early education and care services, in this chapter called the student database, that is compatible with relevant databases at the department of elementary and secondary education and the executive office of health and human services; and
  
- (r) collect and disseminate information to assist parents in nurturing their children's development and education. This information shall be made widely available in written form and accessible through the department's website, in English and other commonly spoken languages in the commonwealth.
  
- (s) plan for and address the unique needs of families with infants and toddlers, including providing parent education, early literacy services and meaningful opportunities for families not enrolled in early education and care to support their children's development.
  
- (t) subject to appropriation, provide consultation services and workforce development to meet the behavioral health needs of children in early education and care programs, giving preference to those services designed to prevent expulsions and suspensions.
  
- (u) subject to appropriation and notwithstanding any general or special law to the contrary, assure quality early education and care provided to children through family child care providers by working cooperatively with family child care providers to build upon the existing system and continuously improve the delivery of high quality early education and care services for eligible low income families through providers who have the requisite skills and training.

**M.G.L.A. 15D § 3**

**§ 3. Board of early education and care; duties; membership; appointments; length of term; purpose**

Effective: November 18, 2008

(a) There shall be a board of early education and care, hereinafter referred to as the board. The board shall set policies and establish regulations related to early education and care programs, and services. The Board shall oversee and supervise the administration of a high-quality system of public and private early education and care. The board shall oversee the development and implementation of a program of voluntary, universally accessible high-quality early childhood education to all preschool-aged children in the commonwealth, subject to appropriation. The board shall oversee the development and management of an educationally sound kindergarten readiness assessment for pre-school children and a comprehensive evaluation of early education and care programs, including the establishment of baseline data to inform the design and implementation of a universally accessible, high-quality early education and care program for all pre-school age children. The board shall oversee the development and implementation of a workforce development system designed to support the education, training and compensation of the early education and care workforce, including all center, family child care, infant, toddler, preschool and school-age providers.

(b) The board shall consist of 11 members, and shall include: the secretary of education, ex-officio, in this chapter called the secretary, or her designee; the secretary of health and human services, ex-officio; and 9 members appointed by the governor. Of the members appointed by the governor, 1 shall be a representative of the business community with a demonstrated commitment to education; 1 shall be an early education and care teacher, selected from a list of 3 nominees jointly provided by the Massachusetts Teachers Association and the Massachusetts Federation of Teachers; 1 shall be a parent or guardian of a child receiving early education and care services or a family childcare provider; 1 shall be a provider of early education and care services with practical experience in the management and administration of early education and care programs; 1 shall be a person with expertise in the evaluation and assessment of successful pre-school education programs; 1 shall be a pediatrician with a focus on child development or a person nationally recognized for research in the field of educational psychology; and 3 shall be additional members.

In making the appointments, the governor shall seek to appoint persons who are from geographically diverse regions of the commonwealth, who are familiar with the differing interests, perspectives and needs of urban, rural and suburban regions, and who reflect the ethnic and racial diversity of the commonwealth's children. In appointing members from urban areas of the commonwealth, the governor shall seek to appoint people who are familiar with the particular issues of urban areas with high concentrations of low-income families. Each of the members chosen shall have a demonstrated interest in and commitment to early education and care and a commitment to maximizing family choice by preserving a mixed system of high-quality public and private programs.

Six members shall constitute a quorum, and the affirmative vote of 6 members shall be necessary for any action taken by the board.

Of the 9 members appointed by the governor, 1 shall be appointed for a term that is coterminous with that of the governor. Each of the remaining 8 members shall be appointed for a term of 5 years. Vacancies shall be filled consistent with the requirements of section 10 of chapter 30. No member shall be appointed to serve more than 2 consecutive full terms. Service for a term of less than 3 years, resulting from an initial appointment or an appointment for the remainder of an unexpired term, shall not be counted as a full term. Upon expiration of the term of office of an

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appointed member, a successor shall be appointed in like manner. If an appointed member is absent from any four regularly scheduled meetings, exclusive of July and August, in any calendar year, his office as a member of said board shall be deemed vacant. The chairperson of the board shall forthwith notify the governor that such vacancy exists.

No appointive member of said board shall be employed by or receive regular compensation from the department of early education and care. The governor shall appoint a chairperson to the board. Not more than 2 members of the board shall be employed on a full-time basis by any agency of the commonwealth. Members of the board who are employed on a full-time basis by the commonwealth shall be ineligible to serve as chairperson. The members of the board shall be reimbursed for their necessary expenses incurred in the performance of their duties. The board shall meet not fewer than 10 times annually at the call of the chairman.

No member of the board shall be found to be in violation of section 6 of chapter 268A for conduct which involves his participation, as a member of the board, in a particular matter before the board which may affect the financial interest of an early education and care program with which the member is affiliated; provided, however, that the member, his immediate family or partner has no personal and direct financial interest in the particular matter; and provided, further, that the affiliation is disclosed to the board and recorded in the minutes of the meeting of the board.

(c) The purposes of the board are as follows:

(1) to consolidate and coordinate resources and public funding streams for early education and care in order to assure the sound and coordinated development of all early education and care programs and services to children;

(2) to encourage family choice by ensuring a mixed system of high-quality public and private programs, with local points of entry, staffed by well-qualified professionals which accommodates ease of movement of children, by parents, between programs and providers without loss of subsidy funding for the family;

(3) to assure parents a decisive role in the planning, operation, and evaluation of programs which aid families in the care of children;

(4) to provide consumer education and accessibility to early education and care resources;

(5) to advance the quality of early education and care programs and services to children in order to support the healthy development of children and preparation for their success in school;

(6) to develop a seamless service delivery system of early education and care programs administered by local, state and federal agencies, with local points of entry;

(7) to develop and manage an effective data collection system to support the necessary functions of a coordinated system of early education and care programs and services to children in order to enable accurate evaluation of its impact;



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(8) to respect and draw upon family values and cultural heritage;

(9) to establish the administrative framework for and promote the development of early education and care services in order to provide that such services, staffed by well-qualified professionals, shall be available in every community for all families which express a need for them;

(10) to assure that family foster care or other residential care is provided only when the family itself or the resources available to the family are unable to provide the necessary care and protection to insure the rights of any child to sound development;

(11) to assure that every child shall in all circumstances be protected against all forms of neglect, cruelty, abuse, and exploitation; and

(12) to promote the design and implementation of the Massachusetts universal pre-kindergarten program.

(d) The board shall review and approve federal grant applications for early education and care programs and may develop guidelines as needed for the disbursement of such funds in accordance with law. The board shall be the approving authority for all federal grants that are applied to public and private early education and care programs in the commonwealth except for those grant programs for which the department of elementary and secondary education is the state educational agency.

(e) The board shall determine the need for all early education and care programs and services, the extent and availability of those programs and services and the coordination of those programs and services, and shall make recommendations to the secretary of education, the general court, and appropriate secretaries, agencies, departments, or other offices on need priorities and any changes necessary to improve coordination.

(f) The board, under chapter 30A, shall adopt and, from time to time, may revise rules and regulations that may be necessary to carry out this chapter. These regulations shall include age-appropriate and developmentally appropriate standards for the following developmental stages: infant and toddler; pre-school; early elementary; and older school age children. These standards shall be promulgated in consultation with the advisory council on early education and care. These regulations shall also include requirements for licensure as established in section 8. The board shall submit any rules and regulations, or revisions to them, to the joint committee on education and the house and senate committees on ways and means at least 60 days before adoption, except for emergency regulations which shall be filed with the committees the same day they are filed with the secretary of the commonwealth. The joint committee on education shall review and comment on these rules and regulations during that time period.

(g) The board shall submit an annual report to the secretary of education, the secretary of administration and finance, and the clerks of the house of representatives and senate, who shall forward the same to the joint committee on

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education, describing its progress in achieving the goals and implementing the programs authorized in this chapter. The report shall evaluate the progress made toward universal early education and care for preschool-aged children and toward reducing expulsion rates through developmentally appropriate prevention and intervention services.

The department shall include an annual report on behavioral health indicators that includes estimates of the annual rates of preschool suspensions and expulsions, the types and prevalence of behavioral health needs of children served by the department, the racial and ethnic background of the children with identified behavioral health needs, the existing capacity to provide behavioral health services, and an analysis of the best intervention and prevention practices, including strategies to improve the delivery of comprehensive services and to improve collaboration between and among early education and care and human services providers. The report and any recommendations for legislative or regulatory changes shall be submitted by February 15th to the secretary of health and human services, the secretary of administration and finance, the children's behavioral health advisory council, the child advocate, and the general court by filing it with the house committee on ways and means, the senate committee on ways and means, the joint committee on education, the joint committee on mental health and substance abuse, the joint committee on children, families and persons with disabilities, the clerk of the house and the clerk of the senate.

M.G.L.A. 15D § 3A

**§ 3A. State advisory council on early education and care; membership; reimbursement of expenses; terms; duties**

Effective: July 31, 2008

There shall be a state advisory council on early education and care, the members of which shall represent a reasonable geographic balance and shall reflect the diversity of the commonwealth in race, ethnicity, gender and sexual orientation. Members of the advisory council shall, at minimum, include 1 person from each of the following organizations, or their successor organizations, if applicable: Child Development and Education, Inc., the Massachusetts Head Start Association; the Massachusetts Association for the Education of Young Children; the Massachusetts Association of Early Childhood Teacher Educators; the Massachusetts Association of School Committees; the Massachusetts Association of School Superintendents; the Massachusetts Elementary School Principals Association; the Massachusetts Association of Regional Schools; the Massachusetts Teachers Association; the American Federation of Teachers Massachusetts; the Massachusetts Business Alliance for Education; the Massachusetts Association of Community Partnerships for Children, Inc.; Strategies for Children/Early Education for All; the Child Care Resource and Referral Network; the Massachusetts Association of Day Care Agencies; the Massachusetts Independent Child Care Organization; Associated Early Care and Education; BostNET; the YMCAs of Massachusetts; the United Way of Massachusetts Bay; the Massachusetts After-School Partnership; Parents Alliance for Catholic Education; Together for Kids Coalition; Horizons for Homeless Children; the Massachusetts Chapter of the American Academy of Pediatrics; the Federation of Children With Special Needs; the Bureau of Jewish Education; the Boston Institute for the Development of Infants and Parents; the Massachusetts Early Intervention Consortium; and a family child care provider chosen by the commissioner.

The council shall be further composed of 8 members, 3 of whom shall be appointed by the speaker of the house, 1 of whom shall be appointed by the minority leader of the house of representatives, 3 of whom shall be appointed by the president of the senate, and 1 of whom shall be appointed by the minority leader of the senate. Additional advisory members may also be recommended by the commissioner and appointed by the board. All appointees shall have a special expertise or interest in high quality early childhood education and care and shall represent a mix of representatives of the early childhood community, the civic, labor, and business communities, academics, parents, teachers, social service providers, and health care providers.

Members shall not, by virtue of their membership, be considered state employees under chapter 268A. The members

of the council shall serve without compensation but may be reimbursed, subject to appropriation, for expenses necessarily and reasonably incurred in the performance of their responsibilities. Members shall be appointed for a term of 3 years. No member shall serve for more than 2 consecutive terms. The council shall meet not fewer than 4 times annually.

The commissioner shall consult with the advisory council on the development of the 5-year master plan for early education and care required under section 4, and the adoption of the educationally sound kindergarten readiness assessment instrument required under sections 3 and 13. The advisory council may review and offer comments on any rules or regulations before promulgation by the board, and may, from time to time, make recommendations to the board that it considers appropriate for changes and improvements in early education and care programs and services.

#### M.G.L.A. 15D § 4

#### § 4. Commissioner; appointment; removal; qualifications; powers and duties

Effective: November 18, 2008

The board shall by a 2/3 vote of its members submit to the secretary, for the secretary's approval, a recommended candidate to serve as the commissioner of early education and care, in this chapter called the commissioner. The secretary may appoint the recommended candidate as commissioner. If the secretary declines to appoint the candidate, the board shall submit a new candidate for consideration. The secretary may appoint the commissioner only from candidates submitted to the secretary by the board.

The board may in its discretion by majority vote of its members remove the commissioner. The commissioner shall be the secretary to the board and its chief executive officer and shall be the executive and administrative head of the department. The commissioner shall receive a salary to be determined by the board.

The commissioner shall have substantial professional or administrative experience in the fields of early education and care. The commissioner shall devote full-time during business hours to the duties of the office. The commissioner shall be responsible for administering and enforcing the law relative to the department. The commissioner may authorize any officer of the department to exercise in his name any power or to discharge any duty assigned to the commissioner by law, and may at any time revoke that authority.

Subject to the approval of the board of early education and care, the commissioner may apply for and accept on behalf of the commonwealth, any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or policies of the department. Such funds shall be received by the state treasurer on behalf of the commonwealth and deposited in a separate account and shall be expended under the direction of the commissioner, with the approval of the board of early education and care. Federal funds paid as reimbursement to the commonwealth shall be deposited into the General Fund.

The commissioner, with the approval of the board, shall establish divisions or other offices considered necessary for the efficient operation of the department. Each division or office shall be under the charge of an associate commissioner who shall be appointed by the commissioner and who shall be subject to the direction, control and supervision of the commissioner. Each associate commissioner shall be a person of skill and experience in the field of appointment and shall be appointed by and may be removed by the commissioner. Each associate commissioner shall devote full-time during business hours to the duties of the office. Sections 9A, 9B and 9D of chapter 30, and chapter 31 shall not apply to the commissioner, to associate commissioners that he may appoint, or to other such supervisory positions that he may create.

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The commissioner shall propose a budget to the board. The budget shall reflect the goals and objectives of the board and the secretary. The board shall review and make recommendations regarding the budget to the secretary. The secretary shall then prepare and submit a budget request on behalf of the department to the house and senate committees on ways and means, the joint committee on education, and to the secretary of administration and finance.

The commissioner may make agreements with other departments and agencies of the commonwealth and may contract with other persons, including, but not limited to, private agencies, to carry out this chapter. The commissioner shall establish standards and procedures governing these agreements and contracts, subject to the approval of the board.

The commissioner shall analyze the present and future goals, needs and requirements of early childhood education and care in the commonwealth and recommend to the board comprehensive means to achieve a well-coordinated system that promotes positive social and emotional development, high educational achievement, and quality care in the commonwealth. Following consultation with the board, the commissioner shall prepare and submit to the secretary, for the secretary's review and approval, a 5-year master plan for achieving such a coordinated system. The master plan along with an annual progress report shall reflect the goals and standards established by the board and the secretary.

The master plan shall include, but not be limited to: enrollment projections; identification of measures for age-appropriate child development and school readiness; expulsion rate projections; utilization of existing facilities; promotion of research; programmatic excellence; recommendations for construction or acquisition of new facilities; program distribution; the addition of new programs; the elimination of existing programs; and the need for program revisions. The commissioner shall receive reports, undertake research, and facilitate coordination among and between all entities delivering programs or services under this chapter. The commissioner shall promote the partnership of providers of early education and care programs and services with elementary and secondary schools, institutions of higher education and business and civic organizations.

The board may delegate its authority, or any portion thereof, to the commissioner whenever, in its judgment, such delegation may be necessary or desirable. The commissioner shall exercise such delegated powers and duties with the full authority of the board.

The commissioner may, subject to appropriation, appoint such other employees as he deems necessary to carry out his duties and responsibilities. The commissioner shall be provided with adequate offices, and may expend sums for other necessary expenses of the department.

The commissioner shall consult with the commissioner of mental health prior to taking an action substantially affecting the design and implementation of behavioral health services for children under guidelines established by the secretary of health and human services and the commissioner of early education and care under section 16S of chapter 6A.

**M.G.L.A. 15D § 4A**

**§ 4A. Sub-state regions for licensure of child care centers and family child care homes; community plans; region-wide improvement plans; state-wide coordination of services**

Effective: July 31, 2008

(a) In order to facilitate the licensure process, the commissioner, with the approval of the board, shall establish sub-state regions within which all licensure or approval of child care centers and family child care homes, large family child care homes, and family child care systems, under sections 6 to 10, inclusive, shall be carried out.

(b) The department shall support and work with local early education and care councils in the development of community plans that address how the councils and communities will: (1) build on the local array of services and improve access to services for additional families or increase services for families already receiving services; (2) increase quality; (3) support comprehensive services for children and families; (4) collaborate across agencies; and (5) provide services for hard to reach populations. Local plans shall be reviewed and evaluated using board-approved criteria to assess the quality of collaborative planning, the effectiveness of the plan in addressing community needs and the quality and cost-effectiveness of proposed services.

(c) In order to ensure regional coordination and to maximize local participation in the programs and services of the department, the department shall support and work with regional child care resource and referral agencies in the development of region-wide improvement plans.

(d) The commissioner shall attempt to maximize statewide coordination of services by ensuring that the geographic service areas of the regional child care resource and referral agencies and the local early education and care councils are similar to each other and to the regions created by subsection (a). These regional agencies and local councils shall work together to provide and coordinate a broad range of services to promote access to high-quality early education and care programs to children and families throughout the commonwealth including, but not limited to, acting as local points of access for families seeking information about and financial assistance for early education and care and supporting professional development opportunities for early education and care providers.

**M.G.L.A. 15D § 5**

**§ 5. Workforce development system; implementation plan**

**Effective: November 18, 2008**

The board shall develop and annually update an implementation plan for a workforce development system designed to support the education, training and compensation of the early education and care workforce, including all center, family child care, infant, toddler, preschool and school-age providers. The board shall solicit input from organizations and agencies that represent a diverse spectrum of expertise, knowledge and understanding of broader workforce development issues and of the professional development needs of the early childhood and care workforce. In order to inform the plan, the board shall conduct:

(1) an inventory and assessment of the current resources and strategies available for workforce and professional development in the commonwealth, including but not limited to Head Start trainings, community-based trainings, higher education programs, child care resource and referral agency trainings, state and federally funded workforce development trainings/programs, public school system trainings/credentialing, and other trainings that address the needs of those who work with children and make recommendations for coordinating the use of those existing resources and strategies;

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(2) analyses using current data on the status of the early education and care workforce, including work experience, certifications, education, training opportunities, salaries, benefits and workplace standards; and

(3) an assessment of the workforce capacity necessary to meet the state's early education and care needs in the future.

In the development of the plan, the board shall consider:

(1) core competencies, a common and shared body of knowledge, for all those working in the early education and care fields;

(2) streamlined and coordinated state certification, credentialing, and licensing within the early education and care fields including teacher and provider certification and licensing, the child development associate, public school teacher certification, and other program standards as appropriate for director, teacher and provider credentialing requirements;

(3) a mandatory and regularly updated professional development and qualification registry;

(4) agreements among higher education institutions for an articulated system of education, training, and professional development in early education and care;

(5) approval of early education and care training programs and academic coursework, incentives for associates and bachelors programs to meet best practices and to modify curricula to reflect current child development research, and certification of trainers and teachers;

(6) coordination of existing workforce resources among public agencies, including establishing regional workforce support resources in coordination with child care resource and referral agencies;

(7) a range of professional development and educational opportunities that provide appropriate coursework and degree pathways for family child care as well as center-based providers at all levels of the career ladder that are available in locations, days, and times that are accessible;

(8) credit for prior learning experiences, development of equivalencies to 2 and 4 year degrees, and the inclusion of strategies for multiple pathways for entry into the field of early education and care;

(9) recruitment and retention of individuals into the early education and care workforce who reflect the ethnic, racial, linguistic, and cultural diversity of Massachusetts families based on the current census data;

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(10) incentives and supports for early education and care professionals to seek additional training and education, such as scholarships, stipends, loan forgiveness connected to a term of service in the field, career counseling and mentoring, release time and substitutes;

(11) guidelines for a career ladder or career lattice representing salaries and benefits that suitably compensate professionals for increases in educational attainment and with incentives for advancement, including a salary enhancement program;

(12) public and private resources to support the workforce development system;

(13) a data collection and evaluation system to determine whether the workforce and professional development activities established pursuant to this chapter are achieving recruitment, retention and quality of the workforce goals;

(14) ways to recognize and honor advancement in educational attainment among early educational and care professionals;

(15) professional development opportunities that are provided in languages other than English, and incorporation of these opportunities into any broader, articulated system that is developed; and

(16) alignment of the core competencies, course offerings and other professional development opportunities, where appropriate, with the program quality standards established under section 11.

(17) training to identify and address infant toddler and early childhood behavioral health needs.

**M.G.L.A. 15D § 6**

**§ 6. License required for operation of child care programs; maintaining child in family foster care; placement; approval of foster homes; advertisement or notice for placement of child under 16 years of age**

**Effective: July 31, 2008**

(a) No person shall operate a school-aged child care program, a child care center, family child care home, large family child care home, placement agency, group care facility, or temporary shelter facility unless that person is licensed by the department. A department, agency or institution of the commonwealth or any political subdivision thereof shall obtain an approval rather than a license in order to operate a child care center, family child care home, placement agency, group care facility, or temporary shelter facility.

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(b) No person shall maintain a child in family foster care without placement, supervision and approval by a placement agency unless that person is licensed by the department.

(c) No person shall place or knowingly facilitate the placement of any child in the care or control of any other person not related to that child by blood or marriage, or in the care or control of any organization other than a licensed or approved placement agency, for purposes of adoption in the commonwealth. No person unrelated to a child by blood or marriage, and no organization other than a licensed or approved placement agency, shall receive a child for purposes of adoption, except from a licensed or approved placement agency. Nothing in this section shall prevent the placement of a child who is not a citizen of the United States when a home study of the prospective parent or parents, before the placement of the child, is performed by a licensed placement agency. For the purpose of this section, the spouse of the natural parent of a child shall be considered to be related by marriage to that child.

(d) Notwithstanding any general or special law, rule or regulation to the contrary, no child shall be placed in a foster home before the approval of the home by the department or by any individual or agency licensed by the department under this section, except in an emergency placement in a foster home limited to relatives or long-term friends of the child's family. This approval shall include criminal record information checks on all persons 18 years or older residing at the home. In the event of any emergency placement, a criminal offender record information check shall be completed on all persons 18 years of age or older residing at the home within 10 working days after the placement. If the result of any of these checks shows that any occupant of the home has a criminal record involving violence, abuse, or exploitation against any person, which bears adversely upon the person's ability to assume and carry out the responsibilities of a foster parent or poses a serious threat of harm to a child, the home shall not be approved by the department. No child shall be placed in that home, and any child placed therein as an emergency placement shall be removed immediately.

(e) No person shall cause to be published in a newspaper distributed in the commonwealth or to be broadcast on a radio or television station in the commonwealth an advertisement or notice for the placement or reception of a child under 16 years of age for family foster care, family child care, large family child care, child care center care, school-aged child care program, group residential care, or temporary shelter care or adoption unless the advertisement is placed by a licensed or approved placement agency, by a licensed family child care home, large family child care home, child care center, school-aged child care program, group care facility or temporary shelter facility, or with the written approval of the department. The advertisement or notice shall include the license or registration number issued to the provider or agency under this section.

**M.G.L.A. 15D § 7**

**§ 7. Issuance of license or approval to persons or department, agency and institution meeting applicable standards and requirements; provisional license or approval**

**Effective: September 3, 2013**

<[ Subsections (a) and (b) applicable as provided by 2013, 77, Sec. 10.]>

(a) The department shall issue and may renew a license to any person other than a department, agency or institution of the commonwealth or any political subdivision thereof, who meets applicable standards and requirements to establish and maintain or to assist in the establishment and maintenance of a school-aged child care program, a child care center, a family child care home, a placement agency, a large family child care home or family foster care which



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is not supervised and approved by a placement agency, group care facility or temporary shelter facility.

(i) As part of the department's licensing and background record check process, the department, prior to issuing any license, shall: (1) obtain from the sex offender registry board all available sex offender registry information associated with the address of the program, center, facility or home; and (2) conduct fingerprint-based checks of the state and national criminal history databases, as authorized by Public Law 92-544. The fingerprint-based checks shall be conducted on any applicant for a family child care assistant certificate or any applicant seeking a license for: family child care; small group and school age child care; large group and school age child care; a residential program; or a placement agency. The fingerprint-based checks shall also be required for any household member, age 15 or older, or any person, age 15 or older, regularly on the premises of applicants for family child care licensure and for all in-home nonrelative department funded caregivers. Authorized department staff may receive all criminal offender record information and the results of checks of state and national criminal history databases pursuant to Public Law 92-544. When the department obtains the results of checks of state and national criminal history databases, it shall treat the information according to sections 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

(ii) As part of the department's licensing and background record check process, the department shall conduct fingerprint-based checks of the state and national criminal history databases, as authorized by Public Law 92-544, to determine the suitability of all applicants for employment, interns and volunteers who have the potential for unsupervised contact with children in any department-licensed or funded program. The fingerprint-based checks shall also be required to determine the suitability of any individual who provides transportation services on behalf of any department-licensed or funded program. Authorized department staff may receive all criminal offender record information and the results of checks of state and national criminal history databases pursuant to Public Law 92-544. When the department obtains the results of checks of state and national criminal history databases, it shall treat the information according to sections 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

(iii) As part of the department's licensing and background record check process, the department shall conduct fingerprint-based checks of the state and national criminal history databases, as authorized by 42 U.S.C. section 16962, for all applicants to be adoptive or foster parents and their household members age 15 or older. Authorized department staff may receive all criminal offender record information and the results of checks of state and national criminal history databases, pursuant to 42 U.S.C. section 16962. When the department obtains the results of checks of state and national criminal history databases, it shall treat the information according to sections 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

(b) The department shall issue approval to a department, agency, or institution of the commonwealth or any political subdivision thereof which it determines meets the applicable standards and requirements to establish and maintain a child care center, family child care home or large family child care home, placement agency, group care facility or temporary shelter facility.

As part of the department's approval process, the department, prior to issuing any approval, shall: (1) obtain from the sex offender registry board all available sex offender registry information associated with the address of the center, home or facility; and (2) conduct fingerprint-based checks of the state and national criminal history databases, pursuant to Public Law 92-544, that are required under this subsection. The fingerprint-based checks of the state and national criminal history databases shall be conducted, pursuant to Public Law 92-544, to determine the suitability of all applicants for employment, interns and volunteers who have the potential for unsupervised contact with children in any department-approved program. The fingerprint-based checks shall also be required to determine the suitability of

any individual who provides transportation services on behalf of any department-approved program. Authorized department staff may receive all criminal offender record information and the results of checks of state and national criminal history information databases pursuant to Public Law 92-544. When the department obtains the results of checks of state and national criminal information databases, it shall treat the information according to sections 167 to 178, inclusive, of chapter 6 and the regulations thereunder regarding criminal offender record information.

(c) The department may issue a provisional license for or may provisionally approve a school-aged child care program, a child care center, family child care home or large family child care home, family foster care which is not supervised and approved by a placement agency, placement agency, group care facility or temporary shelter facility, which has not previously operated, or is operating, but is temporarily unable to meet applicable standards and requirements. A provisional license or approval shall be issued for a period not to exceed 6 months, and in no case shall a person operate under a provisional license, provisional approval, or renewal thereof for more than 12 consecutive months.

**M.G.L.A. 15D § 8**

**§ 8. Adoption of regulations by board; classifications for licensure or approval; medical treatment exemptions; fines; consultation; report**

Effective: September 3, 2013

(a) The board shall adopt regulations relative to the requirements for licensure and approval of school-aged child care programs, child care centers, family child care homes or large family child care homes and family foster care which is not supervised and approved by a placement agency, placement agencies, group care facilities or temporary shelter facilities. These regulations shall be appropriate for the protection of the health, well-being and development of children and shall include, but need not be limited to, provisions relative to: (1) admission policies and procedures; (2) safe transport of children; (3) physical plant and equipment; (4) the number and qualifications of staff; (5) the nature of programs of care or treatment; (6) behavior management and child guidance policies and procedure; (7) health care and nutrition; (8) rights and responsibilities of parents, children and staff; (9) record keeping and other procedures relevant to evaluation including, but not limited to, reports by placement agencies detailing the number and nature, as defined jointly by the University of Massachusetts center for adoption research and policy in the city of Worcester and the department of children and families, of adoptions processed during each calendar quarter to be filed with the center on or before January 30 annually; (10) organization, financing and administration; and (11) the imposition of civil fines and other sanctions. The board shall consult with the board of elementary and secondary education and the executive offices of public safety and health and human services before adopting these rules and regulations. The board shall submit any rules and regulations, or revisions to them, to the joint committee on education for review and comment at least 60 days before adoption.

(b) The regulations may establish classifications for licensure or approval that are necessary to achieve the purposes of this section, but the standards and requirements for approval of a child care center, family child care home or large family child care home, placement agency, group care facility, or temporary shelter operated by a department, agency or institution of the commonwealth or any political subdivision thereof shall be the same as or higher than those applicable to the licensure of comparable facilities or services. The regulations shall establish reasonable license fees and appropriate terms for all licenses granted under this section. No license or approval shall be transferable.

(c) The regulations, as they relate to standards and requirements for licensure and approval of large family child care homes, shall include, but not be limited to, appropriate standards for: 1 or more approved assistants as provided in this

chapter; additional floor space; staff-to-child ratios for multiple age and size groupings; limitations on the number of infants in care at 1 time; the hours of school-aged care; the number and age of school-aged children cared for; a prerequisite that a provider have at least 3 years of experience in licensed family child care and have completed at least 5 hours of specialized training before licensure as a large family child care provider and at least 10 hours of training each subsequent year. In formulating the regulations pertinent to family child care homes, large family child care homes and family foster care, the department shall give special attention to fire and safety precautions.

(d) The regulations shall provide that: each person providing child care or support services with the potential for unsupervised contact with children in any program or facility licensed or funded by the department, as well as any household members or persons regularly on the premises of family child care and large family child care homes shall be subject to a criminal offender record information check; potential adoptive and foster parents and their household members age 15 or older shall be subject to a fingerprint-based check of the state and national criminal history databases pursuant to 42 U.S.C. section 16962; and all applicants for a department issued license, and applicants for employment, interns and volunteers in any department-licensed, department-funded or department-approved program shall be subject to a fingerprint-based check of the state and national criminal history databases pursuant to Public Law 92-544.

The board shall also adopt regulations establishing that the following individuals shall be subject to a sexual offender registry information check pursuant to sections 178I and 178J of chapter 6: (1) each person providing child care or support services with the potential for unsupervised contact with children in any program or facility licensed, funded or approved by the department; (2) any household members or persons regularly on the premises of family child care and large family child care homes; (3) any prospective adoptive and foster parents and their household members; (4) any department funded caregivers; and (5) any individual who provides transportation services on behalf of any department licensed, funded or approved program. The regulations shall also establish the conditions upon which the department may deny an application for a license, a license renewal or approval, employment or department funding and upon which the department may deny prospective adoptive and foster parents based upon the information obtained from the sex offender registry search. The board shall also adopt regulations establishing an address search of the sex offender registry for the purposes of licensing and license renewal or approval of school-aged child care programs, child care centers, family child care homes, placement agencies or large family child care homes, family foster care that is not supervised and approved by a placement agency, group care facilities or temporary shelter facilities, including the conditions in which the department may deny an application for a license, license renewal or approval based upon the information obtained from the address search of the sex offender registry.

(e) Any rule or regulation involving medical treatment shall include appropriate exemptions for children whose parents object to such treatment on the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which the parent or child is an adherent or member. The regulations shall require that each child care program licensed or approved by the department shall obtain from a parent or guardian of a child in care under the age of 6 years, but not less than 2 years of age, a statement, signed by a physician or an employee of a health care agency, that the child has been screened for lead poisoning. This statement shall be obtained upon the child's enrollment if the child is 2 years of age or older or at the time the child reaches 2 years of age.

(f) The regulations shall require that any person who operates a school-age child care program, as defined in section 2 of chapter 132B, or a child care center shall comply with the requirements regarding pesticide applications as set forth in sections 6C to 6I, inclusive of said chapter 132B.

(g) Fines authorized by this section shall range from \$50 to \$1,000. In no case shall a fine imposed on a family child care home, large family child care home or child care center exceed a maximum fine of \$250 per violation.

(h) The department shall provide consultation to assist applicants in meeting its requirements for licensure or approval, and in meeting other applicable state and local requirements relative to fire, safety, and zoning codes.

(i) The board shall conduct a comprehensive review of rules and regulations established under this section at least once every 5 years.

(j) Fingerprints, as referenced in subsections (a) and (b) of section 7 and subsection (d) of this section, shall be submitted to the identification section of the department of state police for a state criminal history check and forwarded to the Federal Bureau of Investigation for a national criminal history check, according to the policies and procedures established by the identification section and by the department of criminal justice information services. Fingerprint submissions may be retained by the Federal Bureau of Investigation, the state identification section and the department of criminal justice information services to assist the department in its review of suitability for initial or continued licensure, certification or approval. The department of criminal justice information services may disseminate the results of a state and national criminal history check to the department of early education and care to determine the suitability of: (1) any current holder of or applicant for a family child care, small group and school age, large group and school age, and residential and placement license, or family child care assistant certificate; (2) all current and prospective employees in any department licensed, funded or approved program, who have the potential for unsupervised contact with children; (3) all household members, age 15 or older, or all persons, age 15 or older, regularly on the premises of current family child care providers and applicants for family child care licensure; (4) all in-home nonrelative department-funded caregivers; (5) all adoptive or foster parent applicants and their household members age 15 or older; and (6) any individual who provides transportation services on behalf of any department licensed, funded or approved program. If the department receives information from a fingerprint-based check that does not include any final disposition or is otherwise incomplete, the department may request that an applicant, either new or renewing, provide additional information to assist the department in determining the suitability of the individual for licensure, certification, approval, funding or employment.

Department licensed, funded or approved programs and providers of transportation services on behalf of any department-licensed, funded or approved program may hire individuals without first obtaining the results of a state and national fingerprint-based criminal history check in limited circumstances, as provided by the board of early education and care.

The board of early education and care shall, in a manner provided by law and under this chapter, promulgate regulations necessary to carry out this subsection. The regulations shall address the circumstances under which a program or transportation provider may hire a conditional employee.

For the purposes of this subsection, “conditional employee” shall mean an individual who has the potential for unsupervised contact with children and who is part of a department licensed, funded or approved program or a provider of transportation services on behalf of any department licensed, funded or approved program and was hired prior to the obtaining of the results of a state and national fingerprint-based criminal history check because the employer determined that hiring the individual was necessary. If a program or transportation provider seeks to hire a conditional employee, the program or transportation provider may request that the individual provide additional information regarding the individual’s history of criminal convictions, if any, to assist the program or transportation provider in determining the individual’s suitability for unsupervised contact with children; provided however, that no unsupervised contact with children shall occur prior to the program or transportation provider obtaining the results of a sexual offender registry information check pursuant to sections 178I and 178J of chapter 6.

The department of criminal justice information services shall disseminate the results of the criminal background check to the department. The department of criminal justice information services shall only disseminate information under this section that would otherwise be available to requesting entities pursuant to sections 167 to 178, inclusive, of chapter 6 and the regulations thereto regarding criminal offender record information.

<[ Subsection (k) added by 2013, 38, Sec. 31.]>

(k) The board shall adopt regulations establishing the conclusiveness of information obtained by the department in an address search of the sex offender registry for purposes of licensing, license renewal or approval of school-aged child care programs, child care centers, family child care homes, placement agencies or large family child care homes, family foster care that is not supervised and approved by a placement agency, group care facilities or temporary shelter facilities, including the conditions in which the address search of the sex offender registry shall be sufficient cause for the department to deny an application for a license, license renewal or approval.

<[ Subsection (k) added by 2013, 77, Sec. 5.]>

(k) All persons required to submit fingerprints under this chapter, including but not limited to: (1) any current holder of or applicant for a family child care, small group and school age, large group and school age, and residential and placement license, or family child care assistant certificate; (2) all current and prospective employees, interns and volunteers in any department licensed, funded or approved program, who have the potential for unsupervised contact with children; (3) all household members, age 15 or older, or persons, age 15 or older, regularly on the premises of current family child care providers and applicants for family child care licensure; (4) all in-home nonrelative department funded caregivers; (5) all adoptive or foster parent applicants and their household members age 15 or older; and (6) any individual who provides transportation services on behalf of any department licensed, funded or approved program, shall pay a fee, to be established by the secretary of administration and finance in consultation with the secretary of public safety and security and the commissioner, to offset the costs of operating and administering a fingerprint-based criminal background check system. The fee shall not exceed \$35 per person. The secretary of administration and finance, in consultation with the secretary of public safety and security and the commissioner, may increase the fee accordingly if the Federal Bureau of Investigation increases its fingerprint background check service fee. The department licensed, funded or approved programs may reimburse applicants for employment, internship or volunteer positions, for all or part of the fee on the grounds of financial hardship. Any fees collected from fingerprinting activity pursuant to this chapter shall be deposited into the Fingerprint-Based Background Check Trust Fund, established by section 2HHHH of chapter 29.

**M.G.L.A. 15D § 9**

**§ 9. Inspection of facilities; investigation and evaluation of notices of abuse or neglect**

Effective: July 31, 2008

(a) The department may, at any reasonable time, visit and inspect any facility operated by a person who is subject to licensure or approval under this section in order to determine whether the facility is being operated in compliance with law and with the rules and regulations established by the board.

(b) The department shall make an unannounced monitoring inspection of all large family day care homes within 6 months after the issuance of licenses for those facilities and shall, annually, make at least 1 such unannounced monitoring inspection thereafter.

(c) The department shall promptly investigate and evaluate any notice transmitted to the department by the department of children and families under subsection (l) of section 51B of chapter 119. Such investigation and evaluation shall determine whether the facility being operated by a person subject to licensure or approval under this section is being operated in compliance with this chapter and within the rules and regulations established under this chapter. If, during the course of any such investigation or licensing study conducted by the department, any agent or employee of the department receives or discovers information concerning the occurrence of child abuse or neglect, such agent or that employee shall make a report to the department of children and families under said section 51A of said chapter 119.

M.G.L.A. 15D § 10

§ 10. Suspension, revocation, etc. of license or approval; annual report

Effective: July 31, 2008

Subject to the requirements of chapter 30A, the department may suspend, revoke, make probationary, refuse to issue or renew the license of any person, assess a civil fine within the limits prescribed by this section, or impose any other sanctions it considers appropriate, in accordance with rules and regulations promulgated by the board. This action may be taken if the person: fails to comply with applicable rules and regulations, furnishes or makes any misleading or false statements relative to any submission required under the rules and regulations, refuses to submit any reports or make available any records required by the rules and regulations or refuses to admit representatives of the department at any reasonable time for purposes of investigation or inspection. The department may temporarily suspend a license in an emergency situation without a prior hearing. Upon request of an aggrieved party, a hearing shall be held as soon after the license is suspended as is reasonably possible. Any party aggrieved by a final decision of the department in any adjudicatory proceeding under this section may petition for judicial review under section 14 of chapter 30A.

The board shall include in its annual report rules and regulations promulgated by the board relative to the use of civil fines and sanctions, the types of sanctions, and the amount of those fines.

M.G.L.A. 15D § 11

§ 11. Program quality standards and requirements

Effective: July 31, 2008

The board, after holding a public hearing, shall adopt, and develop a schedule for revising, program quality standards and requirements that any early education and care program or provider shall meet. The department shall develop separate but related standards for children in the following developmental stages: infant and toddler, pre-school, early elementary and older school-age; and for additional developmental stages that the department may determine relevant based on research and best practices. These standards and requirements shall incorporate essential elements of high-quality early education and care that promote healthy, cognitive, linguistic, social, emotional and physical outcomes, and school readiness based on curriculum frameworks. Standards and requirements shall build upon the licensure regulations promulgated under section 8.

(a) The standards for all developmental stages and any succeeding developmental stages adopted by the department shall be incorporated into a single document and linked by a common philosophy and consistent goals and guiding principles. This document shall also include the policy developed jointly with the department and board of elementary and secondary education required under section 13 to ensure smooth transitions between infant and toddler programs, preschool and kindergarten. The standards shall be regularly updated to reflect applicable research and best practices. The board shall submit standards and requirements, or revisions of them, to the joint committee on education and the house and senate committees on ways and means at least 60 days before adoption. The joint committee on education shall review and comment on the rules and regulations during that time period.

(b) The board shall include, in its adoption and revision of program quality standards, a specific focus on the unique requirements and needs of preschool-aged children including, but not limited to, rigorous guidelines for preschool learning experiences. Every early education and care program or provider shall be required to meet these standards in order to participate in the Massachusetts universal pre-kindergarten program, established in section 13.

(c) The department, with approval of the board, shall develop a consistent set of learning standards for all preschool programs in the commonwealth, to be included in the program quality standards. The standards shall be consistent with the curriculum frameworks developed by the department of elementary and secondary education, shall be research-based and shall be updated regularly to reflect best practices in the field of early education and care. The standards shall guarantee, at a minimum, that every program participating in the Massachusetts universal pre-kindergarten program shall include consultation and intervention services for children at risk for expulsion.

(d) With the approval of the board, the department shall develop and establish a schedule for revising a comprehensive set of developmental benchmarks which may be incorporated into the quality standards, and which may be used by all early education and care programs in measuring children's developmental progress utilizing the healthy, cognitive, linguistic, social, emotional and physical outcomes for developing the quality standards. In developing the benchmarks, the department shall collaborate with pediatricians, child psychologists, and researchers within the field of child development and developmental psychology, in order to ensure that the document reflects best practices in the field and the most recent evidence provided by science relative to early childhood development.

**M.G.L.A. 15D § 12**

**§ 12. Measurement of performance and effectiveness of programs providing early education and care and services**

**Effective: July 31, 2008**

(a) The department shall establish a comprehensive system for measuring the performance and effectiveness of programs providing early education and care and services. This system shall include, but not be limited to, outcomes of the kindergarten readiness assessment system and additional educationally sound, evaluative tools or developmental screenings that are adopted by the department to assess developmental status, age-appropriate progress and school readiness of each child; outcomes of evidence-based intervention and prevention practices to reduce expulsion rates; and evaluations of overall program performance and compliance with applicable laws, standards and requirements. If the department determines that a program has failed to meet performance measures, it may impose sanctions that it

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considers necessary. These sanctions may include, but need not be limited to, probationary status and termination of funding.

(b) The department, with the approval of the board, shall adopt, and from time to time may revise, the rigorous, developmentally appropriate, and educationally sound kindergarten readiness assessment system required by this chapter, including additional tools that the department considers necessary in order to assess age-appropriate progress and school readiness of preschool-aged children. This system shall recognize the unique challenges of assessing preschool-aged children, and shall utilize tools that are reliable, valid and culturally and linguistically appropriate. The department shall align this assessment with its program quality and learning standards, benchmarks, the department of elementary and secondary education's curriculum guidelines and, where applicable, best practices in the field.

(c) Assessments shall be conducted as much as practicable in the child's natural setting, and the results of the assessment tests developed by the department shall not be used for high stakes decisions, so-called, about a child's progress within the preschool environment nor about the child's transition to kindergarten. Data collected from these assessments shall not be used for the purpose of ranking individual students within a program.

(d) In developing these assessments, the department shall survey all providers in the commonwealth, and as much as practicable, review the major assessment systems in place in other states, in order to determine the most appropriate tools of assessment for the commonwealth. Upon determination by the board that the tools are valid, reliable, and appropriate, the department shall require that every provider in the commonwealth participating in the Massachusetts universal pre-kindergarten program use the assessment tools for the purposes outlined in this chapter. Subject to appropriation, the department shall provide training and professional development to providers to ensure the consistent application of assessment tools.

(e) The comprehensive system for measuring the performance and effectiveness of programs shall be designed to measure the extent to which every preschool-aged child receiving early education and care in the commonwealth through the Massachusetts universal pre-kindergarten program has a fair and full opportunity to reach such child's full developmental potential and shall maximize every child's capacity and opportunity to enter kindergarten ready to learn. The comprehensive system shall be designed to include, but not be limited to, measuring a program's ability to provide: (1) instructional improvement through the provision of instructionally relevant information which guides instructional decision-making; (2) alignment of the preschool's curriculum with the state learning and program standards promulgated under this chapter; (3) the identification of children in need of additional educational, medical, and human services; (4) communication with parents; (5) preparation of an appropriate kindergarten transition plan for each student under this chapter; (6) program evaluation under this chapter; and (7) the gathering of data for the longitudinal study required by this chapter.

(f) Pursuant to section 11, the department shall establish a comprehensive system for measuring the performance and effectiveness of preschool programs providing early education and care. This system shall include, but not be limited to, outcomes of the kindergarten readiness assessment system required by this section and other educationally sound, evaluative tools that are adopted by the department to assess age-appropriate progress and school readiness of each preschool-aged child and evaluations of overall provider performance and compliance with applicable laws, standards and requirements. The department shall conduct a formal evaluation of all early education and care programs and providers participating in the Massachusetts universal pre-kindergarten program at least once every 2 years. If the department determines that a provider has failed to meet performance measures, or to comply with applicable laws, standards and requirements, it may impose sanctions that it considers necessary. These sanctions may include, but need not be limited to, a probationary period or termination of funding.



M.G.L.A. 15D § 13

§ 13. Massachusetts universal pre-kindergarten program

Effective: July 31, 2008

(a) The board shall, subject to appropriation, establish the Massachusetts universal pre-kindergarten program to assist in providing voluntary, universally accessible, high-quality early education and care programs and services for preschool-aged children in the commonwealth. The program shall be designed to meet and enhance the preschool-aged child's ability to make age appropriate progress in the development of cognitive, linguistic, social, emotional and physical capacities and school readiness based on curriculum frameworks.

(b) The Massachusetts universal pre-kindergarten program shall be delivered through a mixed system of providers and programs. Programs shall be sufficiently flexible to serve families with various work schedules. The department shall develop a method for funding the program, which may provide grants, or enter into contracts with any provider of early education and care, or entities coordinating or administering plans to provide high-quality, comprehensive services to children and their families within the local community. These providers may include, but are not limited to: public; private; non-profit and for-profit preschools; child care centers; nursery schools; preschools operating within public and private schools; Head Start programs; independent and system-affiliated family child care homes; and local early education and care councils. The department may provide vouchers to eligible households for the purpose of implementing the early education and care program. All providers shall demonstrate that they are willing and able to serve and integrate children of diverse abilities and special needs, diverse cultural and linguistic backgrounds and diverse economic circumstances.

(c) The department and board shall, in consultation with the department and board of elementary and secondary education, develop a joint policy on kindergarten transitions, which shall ensure smooth transitions between home, family day care, center-based preschool, and public pre-school. The policy shall be research-based, and aligned with best practices. The policy shall recognize the sensitive nature of the process for children and families, shall be designed to ensure the ongoing participation of parents and family in the process, and shall maximize all opportunities to ensure smooth transitions during the year before entering kindergarten. The process shall include, as much as is practicable, the exposure of both children and families to the kindergarten environment early and regularly in the transition process. The department shall require every preschool program receiving funding from the commonwealth to develop a local transition plan consistent with the statewide policy plan.

(d) The department, in cooperation with the executive office of health and human services, shall, to the extent practicable, assure that the programs and services provided through the Massachusetts universal pre-kindergarten program are no less available in the aggregate to the children of disabled parents than to the children of non-disabled parents. The department of early education and care, with the approval of the board and in consultation with the state advisory committee on early education and care established in section 3A, shall study and present any additional recommendations on the programmatic, financing, and phase-in options for the development and universal implementation of the Massachusetts universal pre-kindergarten program. This study shall include an estimate of the need for full-day, full-year care that meets the needs of parents who work full-time and shall include the number of pre-school aged children in the commonwealth who may be at risk due to family poverty, TAFDC status, special needs, or other risk factors.

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The department shall include its findings and recommendations, and any updates of its findings, in the annual report required under section 3.

**M.G.L.A. 15D § 14**

**§ 14. Background information on prospective adoptive families; registration of placement agency with adoptive resource exchange**

**Effective: July 31, 2008**

(a) A person whose consent is required by section 2 of chapter 210 may, before surrender, request from a placement agency background information pertaining to the prospective adoptive family in which the placement agency expects to place the child if surrendered. The board shall adopt rules and regulations regarding the nature of the background information. No agency shall be required to reveal the identity or geographical location of the prospective adoptive family to such person. The placement agency shall provide the background information in writing unless the person whose consent is required signs a written waiver of the request.

(b) Each placement agency shall register with an adoption resource exchange in the commonwealth whose goal is adoption of a child, whether the child is free for adoption or at legal risk, for whom the placement agency has been unable to identify a specific adoptive family or initiate the adoption process with a prospective adoptive family within 60 days of the determination of the goal of adoption. For the purposes of this section, an “adoption resource exchange” shall mean a nonprofit agency, the primary purpose of which is to link children awaiting placement with permanent families by providing information and referral services and by the recruitment of potential adoptive families.

**M.G.L.A. 15D § 15**

**§ 15. Penalties for violations of Sec. 6**

**Effective: July 31, 2008**

(a) Any person who violates section 6 shall be punished for each violation by a fine of up to \$5,000 or by imprisonment in the house of correction for not more than 2 ½ years, or by both.

(b) Upon petition of the department, the superior court shall have jurisdiction to enjoin any violation of said section 6 or to take other action that equity and justice may require.

**M.G.L.A. 15D § 16**

**§ 16. Entry and inspection of facilities; court order**

**Effective: July 31, 2008**

Upon petition of the department, the superior court shall have jurisdiction to enter an order permitting the department to enter and inspect, under conditions that the court considers appropriate, a facility operated by a person whom the department has reasonable cause to believe is subject to licensure or approval under this chapter.

**M.G.L.A. 15D § 17**

**§ 17. Provisions in which family child care providers considered public or state employees; prohibitions regarding work stoppages; limitations regarding bargaining; representatives**

**Effective: January 1, 2013**

(a) As used in this section the following words shall, unless the context requires otherwise, have the following meanings:--

“Department of labor relations”, the department of labor relations established by section 90 of chapter 23.

“Employee organization”, an employee organization as defined in section 1 of chapter 150E.

“Family child care provider”, a person who provides family child care services on behalf of low-income and other at-risk children and receives payment from the commonwealth for such services under a rate structure for voucher and contracted payments.

“Family child care services”, child care services provided for less than 24 hours per day in the residence of the provider on behalf of low-income and other at-risk children, for which payment from the commonwealth is made under a rate structure for voucher and contracted payments.

(b) Family child care providers shall be considered public employees, as defined by and solely for the purposes of, chapter 150E and section 17J of chapter 180. Said chapter 150E, including subsection (c) of section 7, shall apply to family child care providers except to the extent that chapter 150E is inconsistent with this section, in which case this section shall control. In addition, family child care providers shall be treated as state employees solely for the purposes of sections 17A and 17G of said chapter 180. Family child care providers shall not be considered public employees or state employees for any purpose other than those set forth in this subsection. The department, acting through the commissioner, shall be the employer, solely for the purposes of said chapter 150E and said sections 17A, 17G and 17J of said chapter 180 and deductions under said sections 17A, 17G and 17J of said chapter 180 may be made by any entity authorized by the commonwealth to compensate family child care providers under a rate structure for voucher and contracted payments. Family child care providers shall not be eligible for benefits through the group insurance commission, the state board of retirement or the state employee workers’ compensation program.

(c) Family child care providers who are employees of the commonwealth under this section are not, for that reason, public employees or employees of the commonwealth for any other purpose, and shall not be classified as employees of the commonwealth or as employees of family child care systems, as defined in section 1A, under section 148B of chapter 149. Nothing in this chapter shall alter the obligations of the commonwealth or the parent or legal guardian of the child receiving family child care services to provide their share of social security, federal and state unemployment taxes, Medicare and workers compensation insurance under the Federal Insurance Contributions Act, federal and state

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unemployment law, the Massachusetts Workers Compensation Act or vicarious liability in tort.

(d) Consistent with section 9A of said chapter 150E, no family child care provider shall engage in a strike and no family child care provider shall induce, encourage or condone any strike, work stoppage, slowdown or withholding of services by any family child care provider.

(e) The only appropriate bargaining unit for family child care providers shall consist of all family child care providers in the commonwealth who are on the most current list provided by the commissioner, regardless of the number of hours of care such family child care providers have worked.

(f) An employee organization seeking to represent family child care providers shall file with the department of labor relations under section 4 of said chapter 150E.

(g) The mandatory subjects, as to which the department and an employee organization certified by the department of labor relations as the bargaining representative of family child care providers shall bargain, shall include developing and encouraging greater education and training opportunities for family child care providers, improvement of recruitment and retention of qualified providers and reimbursement and payment procedures. Nothing in this section shall inhibit the parties from discussing other permissive subjects of bargaining, including, but not limited to, the rate structure for family child care providers.

(h) In addition to the mandatory subjects under subsection (g), the department and an employee organization certified by the department of labor relations as the bargaining representative of family child care providers shall bargain about the rate structure for voucher and contracted payments for family child care services on behalf of low-income and other at-risk children.

(i) Nothing in this section shall modify any right of a parent or legal guardian to choose, terminate the services of or otherwise supervise a family child care provider.

(j) Nothing in this section shall alter or abridge the department's statutory rights and responsibilities to visit, inspect and monitor facilities, or to suspend, revoke, sanction, assess fines or take any other action against a providers license in furtherance of sections 6 to 10, inclusive, and in furtherance of the department's regulations promulgated in this regard. The collective bargaining process and the grievance procedures described in said chapter 150E including section 8 of said chapter 150E, shall not apply to the department's statutory and regulatory licensing, monitoring and enforcement functions or to the contractual arrangements and reimbursements between the department and family child care systems as defined in section 1A of chapter 15D.

(k) Collective bargaining and related activity by providers, as authorized under this section, shall qualify for the state action exemption to the federal anti-trust laws.

**M.G.L.A. 15D § 18**

**§ 18. Grants for development of eligible facilities for licensed early care and education and out of school time programs; Early Education and Out of School Time Capital Fund**

**Effective: November 14, 2013**

(a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Eligible facility”, a building, structure or site that is, or will be, owned, leased or otherwise used by 1 or more eligible organizations and licensed by the department; provided, that at least 25 per cent of the slots in the facility shall serve low-income families who are eligible for public subsidy; provided further, that leased facilities shall have a lease term that is consistent with the scale of the capital investment, but shall not be less than 15 years; and provided further, that municipally-owned buildings shall be eligible provided that there is dedicated single purpose space for licensed early education or out of school time programs.

“Eligible organization”, a non-profit corporation that is exempt from income taxation under chapter 180 or an organization in which a non-profit corporation has a controlling financial or managerial interest.

“Eligible project”, the acquisition, design, construction, repair, renovation, recovery from a natural or man-made disaster, rehabilitation or other capital improvement or deferred maintenance of an eligible facility.

“Grant”, a direct grant of capital funds to an applicant for payment of the costs of an eligible project.

(b) Each recipient of a grant from the Early Education and Out of School Time Capital Fund established in subsection (c) shall be an eligible project that demonstrates: (i) a need for such a project; (ii) the project benefits to low-income children and the affected community; (iii) a financial need for assistance in the form of such a grant; and (iv) local support for the project. Preference may be given to projects that have suffered partial or complete damage to an eligible facility from a natural or man-made disaster.

(c) There shall be within the department a separate fund to be known as the Early Education and Out of School Time Capital Fund. The department shall administer the fund for the purpose of making grants for the development of eligible facilities for licensed early care and education and out of school time programs; provided however that the department may contract with 1 or more quasi-public or non-profit entities to administer the program, including, but not limited to, the Community Economic Development Assistance Corporation established in chapter 40H.