December 10, 2013

The Honorable Scott Simon, Chairman  
House Committee on Health and Welfare  
P. O. Box 94062, Capitol Station  
Baton Rouge, Louisiana  70804

Dear Representative Simon:

The Department of Children and Family Services (DCFS) hereby announces its plan to proceed with rulemaking by finalizing the Notice of Intent titled “Licensing Class B Regulations for Child Care Centers” that was promulgated and published on page 2815 of the October 2013 Louisiana Register. Copies of the notice and fiscal statement were provided to you on, or about, October 10, 2013.

In accordance with R.S. 46:1430 and R.S. 46:1409.B (10) the proposed rule will allow DCFS, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms of licensure for specific violations. It will also provide for a process of appeal, clarify specific areas for which a fine may be assessed, and include procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the Department.

DCFS held a public hearing on November 26, 2013. Copies of the summary of testimony from this hearing, comments received, and department responses to comments are attached. Comments submitted were generally in response to fines and health requirements.

While comments received were considered, the department deems the proposed rule necessary to protect the health, safety, and well-being of the children who receive care in out-of-home licensed child care facilities. Therefore, no changes have been made to the proposed rule.

At this time the department intends to submit the Final Rule to the Office of State Register for publication in the January 2014 issue of the Louisiana Register. This Rule is effective February 1, 2014. Please contact me at (225) 342-9538 if the department may be of any assistance to you concerning this matter.

Sincerely,

Brent Villemarette  
Deputy Secretary

bv/vg

An Equal Opportunity Employer  •  Child Welfare Programs Accredited by the Council on Accreditation for Children and Family Services
PUBLIC HEARING

HEARING OFFICER: Alyson R. McCord
LOCATION: Division of Planning and Policy Circulation
          Department of Children and Family Services
          Iberville Building
          Room 1-127
          Baton Rouge, Louisiana

DATE: Tuesday, November 26, 2013
TIME: 9:00 a.m.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
DIVISION OF PLANNING AND POLICY CIRCULATION

REGULATIONS FOR CHILD CARE CENTERS AND LICENSING CLASS “A”
REGULATIONS FOR CHILD CARE CENTERS & LICENSING CLASS “B”
REGULATIONS FOR CHILD CARE CENTERS

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>PARTY REPRESENTED IF OTHER THAN SELF</th>
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<tbody>
<tr>
<td>Danae Leger</td>
<td>3649 Belle Vale Dr.</td>
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<tr>
<td>Joyce Arnold</td>
<td>3649 Belle Vale Dr.</td>
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<tr>
<td>Lisa G. Brahm</td>
<td>LOOE</td>
<td>LDE</td>
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<tr>
<td>Angie Badaway</td>
<td>10000 Civic Center</td>
<td>Licensing</td>
</tr>
<tr>
<td>Jay McCall</td>
<td>Iberville Blvd</td>
<td>Licensing</td>
</tr>
<tr>
<td>Vishika Gilmore</td>
<td>627 N 4th St</td>
<td>DCF Planning</td>
</tr>
<tr>
<td>Wyatt Graves</td>
<td>2833 Wingate Tower</td>
<td></td>
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<tr>
<td>Gayle Kolso</td>
<td>1001 N 3rd</td>
<td>LDE</td>
</tr>
<tr>
<td>Kimberly Bardell</td>
<td>627 N. 4th St.</td>
<td>DCF8</td>
</tr>
<tr>
<td>James Evans, Sr.</td>
<td>4521 Martin L. King</td>
<td>Head Start</td>
</tr>
<tr>
<td>Kendra Wilkie</td>
<td>1807 N. 3rd Street</td>
<td>Head Start</td>
</tr>
</tbody>
</table>
PUBLIC HEARING

HEARING OFFICER: Alyson R. McCord
LOCATION: Division of Planning and Policy Circulation
Department of Children and Family Services
Iberville Building
Room 1-127
Baton Rouge, Louisiana

DATE: Tuesday, November 26, 2013
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DEPARTMENT OF CHILDREN AND FAMILY SERVICES
DIVISION OF PLANNING AND POLICY CIRCULATION

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<tr>
<td>Alana Guidry</td>
<td>1026 Gary Dr.</td>
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<td>Breaux Bridge</td>
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</tbody>
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MEMORANDUM

TO: Doris McWhite Weston, Manager  
DCFS Appeals Unit

FROM: Alyson R. McCord, Attorney  
DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing #262612 regarding the Amendments to LAC 67:III, Subpart 21,  
Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304,  
7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A”  
and Class “B” Regulations for Child Care Centers, that is scheduled for  
November 26, 2013 at 9:00 a.m. in Room 1-127

*******************************************************************************

Please find attached a Summary of the Public Hearing that was conducted on November  
26, 2013, at 9:00 a.m., at the Iberville Building, 627 North 4th Street, Baton Rouge, Louisiana,  
Room 1-127. Also attached is a copy of the attendance roster for your review.
MEMORANDUM

TO: Vashika Gilmore, Program Coordinator  
DCFS Planning and Policy Circulation Section

FROM: Alyson R. McCord, Attorney  
DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing #262612 regarding the Amendments to LAC 67:III, Subpart 21,  
Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304,  
7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A”  
and Class “B” Regulations for Child Care Centers, that is scheduled for  
November 26, 2013 at 9:00 a.m. in Room 1-127

Attached is the original record of the public hearing that was held on November 26, 2013,  
in Baton Rouge, Louisiana. Please file the appended record with the appropriate official records  
of the department.
PUBLIC HEARING

APPEAL #262612

TUESDAY, NOVEMBER 26, 2013 AT 9:00 A.M.

BATON ROUGE, LOUISIANA

DEPARTMENT OF
CHILDREN AND FAMILY SERVICES
DIVISION OF PROGRAMS/PLANNING

NOTICE OF INTENT FOR:
Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A,
Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335.
Licensing Class “A” Regulations for Child Care Centers and Licensing Class “B”
Regulations for Child Care Centers
CERTIFICATION

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES HEARING OFFICER, ALYSON R. McCORD, DOES HEREBY CERTIFY THAT THE ITEMS IN THE FILE CONSTITUTES THE OFFICIAL RECORD OF THE PUBLIC HEARING. THE HEARING WAS ADJOURNED WITH 1 PUBLIC COMMENT, 2 WRITTEN COMMENT SUBMISSIONS, AND 8 MEMBER(S) OF THE PUBLIC WERE PRESENT TO OFFER REMARKS.

[Signature]

ALYSON R. McCORD
HEARING OFFICER
CERTIFICATION

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES HEARING OFFICER, ALYSON R. MCCORD, DOES HEREBY CERTIFY THAT THE ITEMS IN THE FILE AND ON THE TAPE CONSTITUTES THE OFFICIAL RECORD OF THE PUBLIC HEARING HELD ON TUESDAY, NOVEMBER 26, 2013, AT 9:00 A.M. IN BATON ROUGE, LOUISIANA.

[Signature]

ALYSON R. MCCORD
HEARING OFFICER
INTEROFFICE MEMORANDUM

TO: Doris Weston
   Manager, Appeals Unit

FROM: Alyson R. McCord
      Attorney, DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing 262612 regards the Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers.

I conducted a Public Hearing in Room 1-127 of the Iberville Building on November 26, 2013, at 9:00 a.m. The hearing commenced at 9:13 a.m.

Presenting on behalf of the agency was Angie Badeaux, Program Director of the Licensing Section of the Department of Children and Family Services. Other agency representatives in attendance were Joy McCall, Vashika Gilmore and Kimberly Bardell. Members of the public in attendance were Donna Leger, Joyce Arnold, Lisa G. Brochard, Wyatt Graves, James Evans, Jr., Kahree Wahid and Alana Guidry.

Hearing Summary

Angie Badeaux testified that in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 21 Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers.
Sections Amendment is pursuant to the authority granted to the department by R.S. 46:1430, the rule allows the Department of Children and Family Services, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms for specific violations, including violations of the requirements related to supervision, criminal history checks, state central registry disclosure forms, staff-to-child-ratios, motor vehicle checks, or failing to report critical incidents, if such condition or occurrence does not pose an imminent threat to the health, safety, rights or welfare of a child. These civil fines would not be more than $250 per day for each assessment, and the aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed $2,000. In addition, the rule provides for a process of appeal and notes that all civil fines collected from providers will be placed in the Child Care Licensing Trust Fund for the education and training of employees, staff, or other personnel of child care facilities and child-placing agencies. The rule also offers clarification and revisions to the specific areas for which a fine may be assessed to include supervision, criminal history checks, state central registry disclosure forms, staff-to-child ratios, motor vehicle checks, and critical incidents. In accordance with R.S. 46:1409.B (10), the rule includes procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the department.

**Public Comments from Wyatt Graves of Fundamentals Learning Center**

"My name is Wyatt Graves and I am the Immediate Past President of the Childcare Association of Louisiana and the Owner and Director of seven licensed childcare centers between St. Tammany, Livingston and East Baton Rouge Parishes. I am also a participant in one of the thirteen statewide pilots offered by the Louisiana Department of Education. I have been closely involved with the current initiative to streamline licensing and regulations relative to the senate bill of the 2013 session. It is from that involvement that I have formed the opinion and professional recommendation that this rule is fundamentally flawed. I say this on record also having been part of the work group which wrote and is writing the original draft of this version of this rule. While we support the act of fines, especially as an alternative to the licensing process, we cannot support this rule in its entirety. I want to call attention to the department's ability, already in law, to create a provisional license for those centers who may be in serious deficiencies with meeting those regulations. The rule being promulgated and heard today was
drafted in 2012, which was prior to the 2013 legislative session regarding the streamlining of licensing types and regulations to enhance the overall quality of care in early education offered to Louisiana’s children. During the drafting of this rule in 2012, there was no separate formed to re-write the entire set of regulations which the rule is based upon. There is no insight that we have new licensing and the new quality rating system coming up in the future. This rule was drafted based on old methods of regulations and old content for such regulations. As of now, the entire mindset seems to have changed of regulating childcare. It has evolved and even morphed into something completely new. It is because of the significant changes in direction for regulating childcare and building support for childcare systems to improve quality that I stand with my colleagues and fellow members of the Childcare Association of Louisiana, all 500 plus members, and oppose this rule in its current form. Specifically, the reasons are as follows.

Specific problems with this rule are found in the actual violations which will result in a fine. The one in particular is supervision. This particular regulation, due to its unrealistic nature, has caused the industry undue problems. It’s because of this historical track record that current efforts are being taken to revise the definition of this violation. How can the state move forward with this rule to fine providers based on a regulation that everyone knows is going to change? Furthermore, how can we knowingly implement rules and spend time educating providers and licensing specialists on the new definition to rightly assess this regulation which will lead to fines, only to change the definition, which will likely lead to a new meaning whereby previously written deficiencies and fines would not have been written under the new meaning? Again, those regulations that I am calling into question and is a problem is supervision, which is being cited as one of the critical violations. Under the definition, of supervision and also understanding how we calculate a repeat deficiency, this rule is saying ‘even if one or more of the violations occurred prior to the adoption of the current set of standards’. So in reference to that section of this rule, I’d like to say that in the event that a fine bill is put into practice, the industry and advocates for children and families agree that all records of compliance should begin with the inception of this rule becoming final; not retroactively implemented. The fines bill, from the introduction of the bill into session was designed to promote compliance with providers. Implementing retroactive fines could lead to automatic fining of providers who otherwise could have changed their practices if the plans of corrections process, which is also part of this rule, were in place. It would give providers a change to have corrective plans of action in place before
automatically attacking them with a multiple violation report, which could yield to fines. If we believe that a corrective plan of action is something that we want to implement, which we do believe that, and we support that part of the bill, then we've got to give providers an opportunity to implement a corrective plan of action before we look at retroactive compliance with this particular regulation.

Another point of contention is . . . I don't have the specific section number, but its FI under a particular section. The Director shall report all critical incidents as specified below. But the following critical incidents immediate notification made to emergency personnel and/or law enforcement as appropriate. In addition, the child's parent shall be contacted. Once contact has been made to the child's parent, the Director shall verbally notify the licensing section management staff immediately. The verbal report shall be followed by a written report within 24 hours. So, in reference to that section, in an environment of streamlining regulations and expectations among providers in the early care and education industry, how can we move forward with this rule or regulation where children is the only . . . where childcare, I'm sorry . . . childcare is the only section required to comply with this rule? What is done in public schools when an injury occurs? Are Principals required to call LDE or the Police? If the answer is no and we genuinely care about parity in the system, then this rule and this section needs to be modified.

A little further down in Section B, which is one of the reasons that . . . uhmm, the rule is specifying immediate report be made to the department. Illness or injury requiring hospitalization or professional medical attention of a child, while in the care of the provider, in reference to this section, we've mentioned that this section is very unclear. There are some centers who have registered nurses on staff. If the R.N. looks at the child or assesses the child, does that qualify? What if the parent voluntarily brings the child to the doctor for an evaluation, but no treatment is necessary, does this qualify? With no interpretive guide, this regulation is left ambiguous and literally leads to providers wanting to call the state for every incident that potentially has the harm or change of being referred out to a physician even if it is a child who falls and hits their mouth on a toy and the parent brings them to a dentist. Does that qualify? That's a question.
The physical presence, under General Requirements. We've brought this up in the past too and it doesn't seem that it's addressed in the rule. The physical presence of a sex offender in or on within a thousand feet of a child daycare facility is prohibited. Providers and childcare staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541, physical access to a child daycare facility is defined in R.S. 46:1403. And so, when this rule was talked about there is a legitimate question which is customers who are listed on the registered sex offenders list as we understand a person can be convicted of a sex offense that involves prostitution of legal adults and also be a sex offender or a mother for that matter and wish to enroll their child in one of our schools. This is already happening and we are unclear as to how we will be treated by knowingly allowing them to enter our facilities as a customer. This rule particularly, in this section, needs to be modified and explicit expectations need to be listed for that situation.

Under supervision, I think in the definition of it, children shall not be left alone in any room, excluding the restrooms as noted in section 73:17(B) outdoors or in vehicles, even momentarily, without a staff present. Relative to that section, again, um, a little bit unrealistic and certainly not in line with the other providers of childcare and early education such as preschools and those school settings from a public school campus. The regulations seem to be changing and we should not promulgate a rule knowing that its going to change soon, especially in light of the retroactive look back period which will result in monetary fines.

Section 2 of that same, um, paragraph, a staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff should be able to state how many children are in their care at all times. This is particularly a problem for programs who fall under this license code, but serve after schoolers, especially those that have zones for children to attend and freely choose throughout the day or afternoon. This part of the rule we do not recall being reviewed with the industry and especially this conclusion of the rule. This was . . . this regulation does not and will not work with providers who are caring for after schoolers. A quality and proven method for successfully administering an after school program is what we call zone management. Children are free; which are typically six, seven . . . all the way up to eleven and twelve and sometimes thirteen years of age, to select and move between rooms or activities
frequently, making their own independent decision if they want to watch a movie or play basketball or go to the arcade room or do an arts and crafts activity and they are frequently making those selections throughout the day. Therefore not assigned to a particular staff member, but rather a group of staff members who are managing such zones. This regulation should be changed or omitted for after schoolers particularly.

In closing, I feel as though I’ve pointed out where the industry called substantial changes that need to be made before the rule will work for the industry in the current climate of change. I respectfully ask for the department to reconsider the changes which I’ve mentioned on behalf of the industry and my business. Thank you.”

Adjournment

The hearing was adjourned at 9:29 a.m.

Respectfully Submitted by Alyson R. McCord, Hearing Officer
EXHIBIT #1

WRITTEN COMMENTS FROM WYATT GRAVES (Submitted via email)

WRITTEN RESPONSE FROM DCFS SECRETARY SUZY SONNIER
(Dated December 9, 2013)
My name is Wyatt Graves, and I am the immediate past president of the child care association of LA and the owner/director of 7 licensed childcare centers between St Tammany, Livingston, and east baton rouge parishes. I am also a participant in one of the 13 state-wide pilots offered by DOE. I have been closely involved with the current initiative to streamline licensing and regulations relative to Senate bill 222 of the 2013 session. It is from that involvement that I have formed the opinion and professional recommendation that this rule is fundamentally flawed. I say this on record, also having been part of the work group which wrote drafted the original version of this rule.

While we support the act of fines, especially as an alternative to license revocation, we cannot support this rule in its entirety. I want to call attention to the department’s current ability to create a license with a provisional status for those who need licenses to be monitored more heavily and to serve as an alternative to license revocation.

The rule being proposed and heard today was drafted in 2012 which was prior to the 2013 legislation regarding the streamlining of licensing types and regulations to enhance the overall quality of care and early education offered to Louisiana’s children. During the drafting of this rule, there was no such committee formed to rewrite the entire set of regulations which this rule is based. There was no intent that we’d have new types of licensing and a new quality rating system. This rule was drafted based on old methods of regulations and old content for such regulations. As of now, the entire mindset of regulating childcare has changed, evolved, and morphed into something completely new. It is because of the significant changes in objection for regulating childcare and building support for childcare systems to improve quality that I stand with my colleagues and fellow members of the child care association of LA, all 504, members and oppose this rule in its current form.

Specific reasons are as follows:

Specific problems with this rule are found in the actual violations which will result in a fine. The one in particular is supervision. This particular regulation, due to its unrealistic nature, has caused the industry undue problems. It’s because of the historical track record that current efforts are being taken to revise the very definition of the violation. How can this state move forward with a rule to fine providers based on a regulation that everyone in the state department knows is going to change? Furthermore, how can we knowingly implement rules and spend time educating providers and licensing specialists on the new definition to right try assess it which may lead to fines—only to change the definition which will likely lead to a new meaning whereby previously written deficiencies and fines would not have been written under the new meaning?

a. §7302.6 and/or §7311.A.5 and/or §7311.B -
criminal background check;

b. §7302.H and/or §7311.A.6 - state central registry
disclosure;
c. §7303.F.1 and/or §7303.F.5 - critical incidents;
d. §7317 - supervision; and/or supervision is one of the critical violations;
f. §7331.N - motor vehicle.

In determining whether multiple violations of one
of the above categories has occurred, both for purposes of
this section and for purposes of establishing a history of noncompliance,
all such violations cited during any 24 month
period shall be counted, even if one or more of the violations
occurred prior to the adoption of the current set of standards.

If one or more of the violations occurred prior to adoption of
the current set of standards, a violation is deemed to have
been repeated if the regulation previously violated is
substantially similar to the present rule.

4.a. For the first violation of one of the aforementioned
categories, if the department does not revoke or not renew
the license, the department may issue a formal warning letter
noting the department's intent to take administrative action if
further violations of the same category occur.

b. The warning letter shall include a directed
Corrective Action Plan (CAP) which shall outline the
necessary action and timeframe for such action that a
provider shall take in order to maintain compliance with the
licensing regulations. The Provider shall acknowledge
receipt of the warning letter by submitting a written response.
to the CAP within 14 calendar days of receipt of the letter.

Failure by the provider to submit requested information
and/or failure to implement the CAP as evidenced by a
repeated violation of the same category of the regulations
may result in either the assessment of a civil fine,
revocation/non-renewal of license, or both.

5.a. For the second violation of one of the same
aforementioned categories within a 24 month period,
provider will be assessed a civil fine of up to $250 per day
for violation of each of the aforementioned categories (if
same category cited twice) and fined for each day the
provider was determined to be out of compliance with one of
the aforementioned categories according to the following
schedule of fines:

b. The base fine level for all violations shall be
$200 per day. From the base fine level, factor in any
applicable upward or downward adjustments, even if the
adjustment causes the total to exceed $250. If the total fine
after all upward and downward adjustments exceeds $250,
reduce the fine for the violation to $250 as prescribed by
law.

c. If the violation resulted in death or serious
physical or emotional harm to a child, or placed a child at
risk of death or serious physical or emotional harm, increase
the fine by $50.
ll. If a critical violation for child/staff ratio is
cited and provider was found to have three or more children
above the required ratio, increase the fine by $50.
lll. If a critical violation for child/staff ratio is
cited for failure to have a minimum of two staff present,
increase the fine by $50.
iv. If the provider had a previous license revoked
for the same critical violation cited, increase the fine by $25.
v. If a critical violation for supervision was cited
due to a child being left alone outdoors, increase the fine by
$25.
vi. If the age of the child cited in the child/staff
ratio critical violation is four years of age or younger,
increase the fine by $25.
vii. If the age of the child cited in the supervision
critical violation is four years of age or younger, increase the
fine by $25.
viii. If the critical violation was cited and occurred
despite the objective good faith best efforts of licensee to
comply, decrease the fine by $25.
ix. If a critical violation was cited for the
provider's incomplete documentation of the motor vehicle
check, decrease the fine by $25.
x. If the cited critical violation was for annual
state central registry disclosure forms, decrease the fine by
xi. If the provider self-reported the incident which caused the critical violation to be cited, decrease the fine by $25.

6. For the third violation of one of the same aforementioned categories within a 24 month period, the provider's license may be revoked.

f.1. The director shall report all critical incidents as specified below. For the following critical incidents, immediate notification shall be made to emergency personnel and/or law enforcement, as appropriate. In addition, the child's parent shall be contacted. Once contact or attempted contact has been made with child's parent, the director shall verbally notify Licensing Section/Management staff immediately. The verbal report shall be followed by a written report within 24 hours:

a. death of a child while in the care of the provider;

b. illness or injury requiring hospitalization or professional medical attention of a child while in the care of the provider;

c. any child leaving the facility and/or play yard unsupervised or with an unauthorized person;

d. any child left unsupervised on the play yard;

e. use of corporal punishment;

f. suspected abuse and/or neglect by facility staff;

Comment [TWG2]: In an effort to align regulations and observations among providers in the child care and education industries, how can we move forward with this requirement when child care is the

Comment [TWG3]: This section is very unclear. There are some notes with NNA staff. If the NNA staff at the "head of facilities" has the information, does this count? What if the parent voluntarily brings the child to the

Comment [TWG4]: This regulation is left very ambiguous.
g. any child given the wrong medication or an overdose of the correct medication;

h. leaving any child in a vehicle unsupervised or unsupervised on a field trip;

i. fire on the child care premises if children are present;

j. any serious and unusual situation that affects the safety and/or well-being of a child or children in the case of the provider;

k. any emergency situation that requires sheltering in place;

l. implementation of facility lock-down procedures, and/or temporarily relocating children;

m. any loss of power over two hours while children are in care;

n. an accident involving transportation of children in which children were injured; and/or

o. a physical altercation between adults in the presence of children on the child care premises.

2. Director shall ensure that appropriate steps have been taken to ensure the health and safety of the children in sheltering in place and/or lock down situations prior to notifying parents and/or Licensing Section management staff.

3. Within 24 hours or the next business day, the
director shall verbally notify Licensing Section management
staff of the following reportable incidents. The verbal report
shall be followed by a written report within 24 hours:
a. fire on the child care premises if children not
present;

General Requirements
A. - M. ...
N. The physical presence of a sex offender in, on, or
within 1,000 feet of a child day care facility is prohibited.

Providers and child care staff shall not permit an individual
convicted of a sex offense, as defined in R.S. 15:541,
physical access to a child day care facility, as defined in R.S.
46:1403.
O. The owner or director of a child day care facility shall
be required to call and notify law enforcement agencies and
the Licensing Section management staff if a sexual offender is
on the premises of the child day care facility or within 1,000
feet of the child day care facility. The licensing office shall
be contacted immediately. The verbal report shall be
followed by a written report.

E. The DCCS form noting required child/staff ratios
shall be posted in each room included in the facility’s
licensed capacity.

§7317. Supervision
A. Children shall be supervised at all times in the facility,
on the playground, on field trips, and on non vehicular
excursions, including all water activities and water play
activities.
1. Children shall not be left alone in any room,
(excluding the restroom as noted in §7317.B) outdoors, or in
vehicles, even momentarily, without a staff member.
2. A staff person shall be assigned to supervise

Comment: The regulation has been expanded to include notification of law enforcement and the Licensing Section management staff in situations where a sexual offender is on the premises of the child day care facility or within 1,000 feet of the facility. This is to ensure the safety and well-being of children in the care of the facility.
specific children whose names and whereabouts that staff
person shall know and with whom the staff person shall be
physically present. Staff shall be able to state how many
children are in their care at all times;
B. Children who are developmentally able may be
permitted to go to the restroom on the child care premises
independently, provided that:
1. staff member’s proximity to children assures
immediate intervention to safeguard a child from harm while
in the restroom;
2. individuals who are not staff members may not
enter the facility restroom area while in use by any child
other than their own child;
3. a child five years of age and younger shall be
supervised by staff members who are able to hear the child
while in the restroom; and
4. a child six years of age and older may be permitted
to go and return from the restroom without staff; however,
staff must know the whereabouts of the child at all times.
C. When children are outside on the play yard, the staff
member shall be able to summon another adult staff without
leaving the group unsupervised.
D. Staff shall actively supervise children engaged in
water activities and shall be able to see all parts of the
swimming pool, including the bottom.
E. Children ages two years and above may be grouped together at rest time with one staff in each room supervising the resting children. If two rooms share a common doorway, one staff may supervise the resting children. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff continually circulating among the resting children.

F. Areas used by the children shall be lighted in such a way as to allow visual supervision at all times.

G. While on duty with a group of children, staff shall devote their entire time to supervising the children, meeting the needs of the children, and participating with them in their activities. Staff duties that include cooking, housekeeping, and/or administrative functions shall not interfere with the supervision of children.

In closing, I feel as though I have pointed out what the industry calls substantial changes needed before this rule be made final. I respectfully ask the department to reconsider the changes which I have mentioned on behalf of the industry.
December 9, 2013

Wyatt Graves
P.O. Box 1449
Walker, LA 70785

Re: Public Hearing Comments (Licensing Class “A” Regulations for Child Care Centers and Licensing Class “B” Regulations for Child Care Centers – Notices of Intent)

Dear Mr. Graves:

This letter is in response to your comments made during a public hearing held by the Department of Children and Family Services (DCFS) on November 26, 2013, regarding the department’s proposed Licensing rules published in the October 20, 2013 Louisiana Register. R.S. 46:1430 granted DCFS the authority to enact sanctions through the use of civil fines in lieu of license revocation with regard to specific violations if the condition or occurrence does not pose an imminent threat to the health, safety, or welfare of a child.

DCFS coordinated with various stakeholders, including the Child Care Association of Louisiana (CCAL) in the development of the proposed rules. The department deems this rule necessary to protect the health, safety, and well-being of the children who receive care in out-of-home licensed child care facilities. We appreciate your comments regarding this rule and thank you for your participation in this process.

Sincerely,

Suzy Sonnier
Secretary

C: Brent Villemarette
   Lisa Andry
   Sammy Guillory
   Angie Badeaux
EXHIBIT #2

WRITTEN COMMENTS FROM CHARLES DEGRAW AND LOUIS TRACHTMAN (Received by Child Support Enforcement)

WRITTEN RESPONSE FROM DCFS SECRETARY SUZY SONNIER
(Dated December 9, 2013)
Ms. Lisa Andry  
Deputy Assistant Secretary  
Department of Children and Family Services  
P.O. Box 94065  
Baton Rouge, Louisiana 70804-9065

Dear Ms. Landry:

We in the Department of Health and Hospitals, Office of Public Health, Tuberculosis Control Section have reviewed your Department's Notice of Intent published in the October 2013 issue of the Louisiana Register. Specifically regarding Licensing Class “B” Regulations for Child Care Centers (LAC 67:III.7365). Under 7. Health Requirements b. The reference to tuberculosis and testing should be omitted, as should the reference to Chapter II of the State Sanitary Code.

We feel that the requirement to have no evidence of active tuberculosis is covered well in 7.a. in that staff “must be free from infectious and contagious diseases.” In 2009, the requirements for tuberculin testing in the State Sanitary Code’s Chapter II were changed. That current requirement is in “Chapter II - Chapter 5. §501. Employee Health for Employees, Volunteers and Patients at Certain Medical and Residential Facilities.” There is no requirement in the State Sanitary for “routine” testing of staff in Child Care Centers.

If you have any questions about this recommendation, please let us know. We can be reached via e-mail or by telephone as follows:  
Mr. Charles DeGraw Charles.DeGraw@la.gov (504) 568-5015 – Program Director  
Dr. Louis Trachtman Louis.Trachtman@la.gov (504) 568-5015 – Program Medical Director

Thank you for your consideration of this matter.

Sincerely,

Charles DeGraw  
Louis Trachtman, MD, MPH
December 9, 2013

Charles DeGraw, Program Director
Louis Trachtman, MD, MPH, Program Medical Director
Department of Health and Hospitals, Office of Public Health
1450 Poydras Street
Suite 2029
New Orleans, LA 70112

Re: Public Hearing Comments (Licensing Class “B” Regulations for Child Care Centers – Notice of Intent)

Dear Mr. DeGraw and Dr. Trachtman:

This letter is in response to your comments submitted to the Department of Children and Family Services (DCFS) regarding the department’s proposed Licensing rule published in the October 20, 2013 Louisiana Register. You expressed concerns related to the Louisiana Administrative Code (LAC 67:III.7365) references to tuberculosis and testing.

We appreciate your comments regarding the Class B licensing regulations related to the standard which requires tuberculosis testing for all child care staff. However the proposed rule does not address changes to the health requirements for staff and will be addressed when the entire rule is revised. We appreciate the time and effort that went into your response regarding this rule and thank you for your participation in this process.

Sincerely,

Suzy Sonnier
Secretary

C. Brent Villemarette
Lisa Andry
Sammy Guillory
Angie Badeaux
December 10, 2013

The Honorable Charles E. Kleckley  
Speaker of the House  
Louisiana House of Representatives  
P. O. Box 94062, Capitol Station  
Baton Rouge, Louisiana 70804

Dear Representative Kleckley:

The Department of Children and Family Services (DCFS) hereby announces its plan to proceed with rulemaking by finalizing the Notice of Intent titled “ Licensing Class B Regulations for Child Care Centers” that was promulgated and published on page 2815 of the October 2013 Louisiana Register. Copies of the notice and fiscal statement were provided to you on, or about, October 10, 2013.

In accordance with R.S. 46:1430 and R.S. 46:1409.B (10) the proposed rule will allow DCFS, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms of licensure for specific violations. It will also provide for a process of appeal, clarify specific areas for which a fine may be assessed, and include procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the Department.

DCFS held a public hearing on November 26, 2013. Copies of the summary of testimony from this hearing, comments received, and department responses to comments are attached. Comments submitted were generally in response to fines and health requirements.

While comments received were considered, the department deems the proposed rule necessary to protect the health, safety, and well-being of the children who receive care in out-of-home licensed child care facilities. Therefore, no changes have been made to the proposed rule.

At this time the department intends to submit the Final Rule to the Office of State Register for publication in the January 2014 issue of the Louisiana Register. This Rule is effective February 1, 2014. Please contact me at (225) 342-9538 if the department may be of any assistance to you concerning this matter.

Sincerely,

Brent Villernarete  
Deputy Secretary

bv/vg
PUBLIC HEARING

HEARING OFFICER: Alyson R. McCord
LOCATION: Division of Planning and Policy Circulation
           Department of Children and Family Services
           Iberville Building
           Room 1-127
           Baton Rouge, Louisiana
DATE: Tuesday, November 26, 2013
TIME: 9:00 a.m.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
DIVISION OF PLANNING AND POLICY CIRCULATION

REGULATIONS FOR CHILD CARE CENTERS AND LICENSING CLASS “A”
REGULATIONS FOR CHILD CARE CENTERS & LICENSING CLASS “B”
REGULATIONS FOR CHILD CARE CENTERS

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>PARTY REPRESENTED IF OTHER THAN SELF</th>
</tr>
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<tbody>
<tr>
<td>Donna Leger</td>
<td>3649 Belle Vale Dr.</td>
<td></td>
</tr>
<tr>
<td>Joyce Arnold</td>
<td>3649 Belle Vale Dr.</td>
<td></td>
</tr>
<tr>
<td>Lisa G. Breland</td>
<td>LDOE</td>
<td>LDE</td>
</tr>
<tr>
<td>Angie Bardin</td>
<td>Iberline Bldg.</td>
<td>Licensing</td>
</tr>
<tr>
<td>Jay McAllie</td>
<td>Iberline Bldg.</td>
<td>Licensing</td>
</tr>
<tr>
<td>Vashika Gilmore</td>
<td>627 N 4th St.</td>
<td>DCRS Planning</td>
</tr>
<tr>
<td>Wyatt Graves</td>
<td>2538 Winged Foot</td>
<td></td>
</tr>
<tr>
<td>Gayle Kelso</td>
<td>1201 N 3rd</td>
<td>LDOE</td>
</tr>
<tr>
<td>Kimberly Bartell</td>
<td>627 N. 4th</td>
<td>DCF8</td>
</tr>
<tr>
<td>James Evans Jr</td>
<td>4521 Martin L. King</td>
<td>Head Start</td>
</tr>
<tr>
<td>Kalliee Waddid</td>
<td>1201 Martin L. King</td>
<td>Head Start</td>
</tr>
</tbody>
</table>
PUBLIC HEARING

HEARING OFFICER: Alyson R. McCord
LOCATION: Division of Planning and Policy Circulation
Department of Children and Family Services
Iberville Building
Room 1-127
Baton Rouge, Louisiana

DATE: Tuesday, November 26, 2013
TIME: 9:00 a.m.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
DIVISION OF PLANNING AND POLICY CIRCULATION

REGULATIONS FOR CHILD CARE CENTERS AND LICENSING CLASS “A”
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<tr>
<td>Alana Guidry</td>
<td>1026 Gary Dr.</td>
<td>Breaux Bridge</td>
</tr>
</tbody>
</table>


MEMORANDUM

TO:      Doris McWhite Weston, Manager
         DCFS Appeals Unit

FROM:   Alyson R. McCord, Attorney
         DCFS Appeals Unit

DATE:    November 26, 2013

RE:      Public Hearing #262612 regarding the Amendments to LAC 67:III, Subpart 21,
         Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304,
         7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A”
         and Class “B” Regulations for Child Care Centers, that is scheduled for
         November 26, 2013 at 9:00 a.m. in Room 1-127

*******************************************************************************

Please find attached a Summary of the Public Hearing that was conducted on November
26, 2013, at 9:00 a.m., at the Iberville Building, 627 North 4th Street, Baton Rouge, Louisiana,
Room 1-127. Also attached is a copy of the attendance roster for your review.
MEMORANDUM

TO: Vashika Gilmore, Program Coordinator
DCFS Planning and Policy Circulation Section

FROM: Alyson R. McCord, Attorney
DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing #262612 regarding the Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers, that is scheduled for November 26, 2013 at 9:00 a.m. in Room 1-127

Attached is the original record of the public hearing that was held on November 26, 2013, in Baton Rouge, Louisiana. Please file the appended record with the appropriate official records of the department.
PUBLIC HEARING

APPEAL #262612

TUESDAY, NOVEMBER 26, 2013 AT 9:00 A.M.

BATON ROUGE, LOUISIANA

DEPARTMENT OF
CHILDREN AND FAMILY SERVICES
DIVISION OF PROGRAMS/PLANNING

NOTICE OF INTENT FOR:
Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A,
Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335.
Licensing Class “A” Regulations for Child Care Centers and Licensing Class “B”
Regulations for Child Care Centers
CERTIFICATION

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES HEARING OFFICER, ALYSON R. McCORD, DOES HEREBY CERTIFY THAT THE ITEMS IN THE FILE CONSTITUTES THE OFFICIAL RECORD OF THE PUBLIC HEARING. THE HEARING WAS ADJOURNED WITH 1 PUBLIC COMMENT, 2 WRITTEN COMMENT SUBMISSIONS, AND 8 MEMBER(S) OF THE PUBLIC WERE PRESENT TO OFFER REMARKS.

ALYSON R. McCORD
HEARING OFFICER
CERTIFICATION

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES HEARING OFFICER, ALYSON R. McCORD, DOES HEREBY CERTIFY THAT THE ITEMS IN THE FILE AND ON THE TAPE CONSTITUTES THE OFFICIAL RECORD OF THE PUBLIC HEARING HELD ON TUESDAY, NOVEMBER 26, 2013, AT 9:00 A.M. IN BATON ROUGE, LOUISIANA.

[Signature]

ALYSON R. McCORD
HEARING OFFICER
INTEROFFICE MEMORANDUM

TO: Doris Weston
   Manager, Appeals Unit

FROM: Alyson R. McCord
       Attorney, DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing 262612 regards the Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers.

I conducted a Public Hearing in Room 1-127 of the Iberville Building on November 26, 2013, at 9:00 a.m. The hearing commenced at 9:13 a.m.

Presenting on behalf of the agency was Angie Badeaux, Program Director of the Licensing Section of the Department of Children and Family Services. Other agency representatives in attendance were Joy McCall, Vashika Gilmore and Kimberly Bardell. Members of the public in attendance were Donna Leger, Joyce Arnold, Lisa G. Brochard, Wyatt Graves, James Evans, Jr., Kahree Wahid and Alana Guidry.

Hearing Summary

Angie Badeaux testified that in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 21 Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers.
Sections Amendment is pursuant to the authority granted to the department by R.S. 46:1430, the rule allows the Department of Children and Family Services, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms for specific violations, including violations of the requirements related to supervision, criminal history checks, state central registry disclosure forms, staff-to-child-ratios, motor vehicle checks, or failing to report critical incidents, if such condition or occurrence does not pose an imminent threat to the health, safety, rights or welfare of a child. These civil fines would not be more than $250 per day for each assessment, and the aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed $2,000. In addition, the rule provides for a process of appeal and notes that all civil fines collected from providers will be placed in the Child Care Licensing Trust Fund for the education and training of employees, staff, or other personnel of child care facilities and child-placing agencies. The rule also offers clarification and revisions to the specific areas for which a fine may be assessed to include supervision, criminal history checks, state central registry disclosure forms, staff-to-child ratios, motor vehicle checks, and critical incidents. In accordance with R.S. 46:1409.B (10), the rule includes procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the department.

Public Comments from Wyatt Graves of Fundamentals Learning Center

"My name is Wyatt Graves and I am the Immediate Past President of the Childcare Association of Louisiana and the Owner and Director of seven licensed childcare centers between St. Tammany, Livingston and East Baton Rouge Parishes. I am also a participant in one of the thirteen statewide pilots offered by the Louisiana Department of Education. I have been closely involved with the current initiative to streamline licensing and regulations relative to the senate bill of the 2013 session. It is from that involvement that I have formed the opinion and professional recommendation that this rule is fundamentally flawed. I say this on record also having been part of the work group which wrote and is writing the original draft of this version of this rule. While we support the act of fines, especially as an alternative to the licensing process, we cannot support this rule in its entirety. I want to call attention to the department's ability, already in law, to create a provisional license for those centers who may be in serious deficiencies with meeting those regulations. The rule being promulgated and heard today was
drafted in 2012, which was prior to the 2013 legislative session regarding the streamlining of licensing types and regulations to enhance the overall quality of care in early education offered to Louisiana’s children. During the drafting of this rule in 2012, there was no separate formed to re-write the entire set of regulations which the rule is based upon. There is no insight that we have new licensing and the new quality rating system coming up in the future. This rule was drafted based on old methods of regulations and old content for such regulations. As of now, the entire mindset seems to have changed of regulating childcare. It has evolved and even morphed into something completely new. It is because of the significant changes in direction for regulating childcare and building support for childcare systems to improve quality that I stand with my colleagues and fellow members of the Childcare Association of Louisiana, all 500 plus members, and oppose this rule in its current form. Specifically, the reasons are as follows. Specific problems with this rule are found in the actual violations which will result in a fine. The one in particular is supervision. This particular regulation, due to its unrealistic nature, has caused the industry undue problems. It’s because of this historical track record that current efforts are being taken to revise the definition of this violation. How can the state move forward with this rule to fine providers based on a regulation that everyone knows is going to change? Furthermore, how can we knowingly implement rules and spend time educating providers and licensing specialists on the new definition to rightly assess this regulation which will lead to fines, only to change the definition, which will likely lead to a new meaning whereby previously written deficiencies and fines would not have been written under the new meaning? Again, those regulations that I am calling into question and is a problem is supervision, which is being cited as one of the critical violations. Under the definition, of supervision and also understanding how we calculate a repeat deficiency, this rule is saying ‘even if one or more of the violations occurred prior to the adoption of the current set of standards’. So in reference to that section of this rule, I’d like to say that in the event that a fine bill is put into practice, the industry and advocates for children and families agree that all records of compliance should begin with the inception of this rule becoming final; not retroactively implemented. The fines bill, from the introduction of the bill into session was designed to promote compliance with providers. Implementing retroactive fines could lead to automatic fining of providers who otherwise could have changed their practices if the plans of corrections process, which is also part of this rule, were in place. It would give providers a change to have corrective plans of action in place before
automatically attacking them with a multiple violation report, which could yield to fines. If we believe that a corrective plan of action is something that we want to implement, which we do believe that, and we support that part of the bill, then we've got to give providers an opportunity to implement a corrective plan of action before we look at retroactive compliance with this particular regulation.

Another point of contention is... I don't have the specific section number, but its F1 under a particular section. The Director shall report all critical incidents as specified below. But the following critical incidents immediate notification made to emergency personnel and/or law enforcement as appropriate. In addition, the child's parent shall be contacted. Once contact has been made to the child's parent, the Director shall verbally notify the licensing section management staff immediately. The verbal report shall be followed by a written report within 24 hours. So, in reference to that section, in an environment of streamlining regulations and expectations among providers in the early care and education industry, how can we move forward with this rule or regulation where children is the only... where childcare, I'm sorry... childcare is the only section required to comply with this rule? What is done in public schools when an injury occurs? Are Principals required to call LDE or the Police? If the answer is no and we genuinely care about parity in the system, then this rule and this section needs to be modified.

A little further down in Section B, which is one of the reasons that... uhmm, the rule is specifying immediate report be made to the department. Illness or injury requiring hospitalization or professional medical attention of a child, while in the care of the provider, in reference to this section, we've mentioned that this section is very unclear. There are some centers who have registered nurses on staff. If the R.N. looks at the child or assesses the child, does that qualify? What if the parent voluntarily brings the child to the doctor for an evaluation, but no treatment is necessary, does this qualify? With no interpretive guide, this regulation is left ambiguous and literally leads to providers wanting to call the state for every incident that potentially has the harm or change of being referred out to a physician even if it is a child who falls and hits their mouth on a toy and the parent brings them to a dentist. Does that qualify? That's a question.
The physical presence, under General Requirements. We’ve brought this up in the past too and it doesn’t seem that it’s addressed in the rule. The physical presence of a sex offender in or on within a thousand feet of a child daycare facility is prohibited. Providers and childcare staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541, physical access to a child daycare facility is defined in R.S. 46:1403. And so, when this rule was talked about there is a legitimate question which is customers who are listed on the registered sex offenders list as we understand a person can be convicted of a sex offense that involves prostitution of legal adults and also be a sex offender or a mother for that matter and wish to enroll their child in one of our schools. This is already happening and we are unclear as to how we will be treated by knowingly allowing them to enter our facilities as a customer. This rule particularly, in this section, needs to be modified and explicit expectations need to be listed for that situation.

Under supervision, I think in the definition of it, children shall not be left alone in any room, excluding the restrooms as noted in section 73:17(B) outdoors or in vehicles, even momentarily, without a staff present. Relative to that section, again, um, a little bit unrealistic and certainly not in line with the other providers of childcare and early education such as preschools and those school settings from a public school campus. The regulations seem to be changing and we should not promulgate a rule knowing that its going to change soon, especially in light of the retroactive look back period which will result in monetary fines.

Section 2 of that same, um, paragraph, a staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff should be able to state how many children are in their care at all times. This is particularly a problem for programs who fall under this license code, but serve after schoolers, especially those that have zones for children to attend and freely choose throughout the day or afternoon. This part of the rule we do not recall being reviewed with the industry and especially this conclusion of the rule. This was . . . this regulation does not and will not work with providers who are caring for after schoolers. A quality and proven method for successfully administering an after school program is what we call zone management. Children are free; which are typically six, seven . . . all the way up to eleven and twelve and sometimes thirteen years of age, to select and move between rooms or activities.
frequently, making their own independent decision if they want to watch a movie or play basketball or go to the arcade room or do an arts and crafts activity and they are frequently making those selections throughout the day. Therefore not assigned to a particular staff member, but rather a group of staff members who are managing such zones. This regulation should be changed or omitted for after schoolers particularly.

In closing, I feel as though I’ve pointed out where the industry called substantial changes that need to be made before the rule will work for the industry in the current climate of change. I respectfully ask for the department to reconsider the changes which I’ve mentioned on behalf of the industry and my business. Thank you.”

Adjournment

The hearing was adjourned at 9:29 a.m.

Respectfully Submitted by Alyson R. McCord, Hearing Officer
EXHIBIT #1

WRITTEN COMMENTS FROM WYATT GRAVES (Submitted via email)

WRITTEN RESPONSE FROM DCFS SECRETARY SUZY SONNIER
(Dated December 9, 2013)
My name is Wyatt Graves, and I am the immediate past president of the child care association of la and the owner/director of 7 licensed childcare centers between st tammany, livingston, and east baton rouge parishes. I am also a participant in one of the 13 state-wide pilots offered by DOE. I have been closely involved with the current initiative to streamline licensing and regulations relative to Senate Bill 222 of the 2013 session. It is from that involvement that I have formed the opinion and professional recommendation that this rule is fundamentally flawed. I say this on record, also having been part of the work group which wrote drafted the original versions of this rule.

While we support the act of fines, especially as an alternative to license revocation, we cannot support this rule in its entirety. I want to call attention to the department's current ability to create a license with a provisional status for those who need licenses to be monitored more heavily and to serve as an alternative to license revocation.

The rule being promulgated and heard today was drafted in 2012 which was prior to the 2013 legislation regarding the streamlining of licensing types and regulations to enhance the overall quality of care and early education offered to Louisiana's children. During the drafting of this rule, there was no such committee formed to rewrite the entire set of regulations which this rule is based. There was no intent that we'd have new types of licensing and a new quality rating system. This rule was drafted based on old methods of regulations and old content for such regulations. As of now, the entire mindset of regulating child care has changed, evolved, and morphed into something completely new. It is because of the significant changes in direction for regulating child care and building support for child care systems to improve quality that I stand with my colleagues and fellow members of the child care association of la, all 501c members and oppose this rule in its current form.

Specific reasons are as follows:

Specific problems with this rule are found in the actual violations which will result in a fine, the one in particular is supervision. This particular regulation, due to its unrealistic nature, has caused the industry undue problems. It's because of this historical track record that current efforts are being taken to revise the very definition of the violation. How can that state move forward with a rule to fine providers based on a regulation that everyone in the state department knows is going to change? Furthermore, how can we knowingly implement rules and spend time educating providers and licensing specialists on the new definition to only assess which may lead to fines only to change the definition which will likely lead to a new meaning whereby previously written deficiencies and fines would not have been written under the new meaning?

a. §7302.6 and/or §7311.A.5 and/or §7311.6 -
criminal background check;

b. §7302.6 and/or §7311.A.6 - state central registry disclosure;
c. §7303.1 and/or §7303.5 - critical incidents;

e. §7315.A - D - ratio,

d. §7317 - supervision; and/or supervision is one of the critical violations

f. §7331.N - motor vehicle.

In determining whether multiple violations of one
of the above categories has occurred, both for purposes of
this section and for purposes of establishing a history of noncompliance,
all such violations cited during any 24 month
period shall be counted, even if one or more of the violations
occurred prior to the adoption of the current set of standards.
If one or more of the violations occurred prior to adoption of
the current set of standards, a violation is deemed to have
been repeated if the regulation previously violated is
substantially similar to the present rule.

4.a. For the first violation of one of the aforementioned
categories, if the department does not revoke or not renew
the license, the department may issue a formal warning letter
noting the department's intent to take administrative action if
further violations of the same category occur.

b. The warning letter shall include a directed
Corrective Action Plan (CAP) which shall outline the
necessary action and timeframe for such action that a
provider shall take in order to maintain compliance with the
licensing regulations. The Provider shall acknowledge
receipt of the warning letter by submitting a written response.
to the CAP within 14 calendar days of receipt of the letter.

Failure by the provider to submit requested information
and/or failure to implement the CAP as evidenced by a
repeated violation of the same category of the regulations
may result in either the assessment of a civil fine,
revocation/non-renewal of license, or both.

5.a. For the second violation of one of the same
aforementioned categories within a 24 month period,
provider will be assessed a civil fine of up to $250 per day
for violation of each of the aforementioned categories (if
same category cited twice) and fined for each day the
provider was determined to be out of compliance with one of
the aforementioned categories according to the following
schedule of fines:

b. The base fine level for all violations shall be
$200 per day. From the base fine level, factor in any
applicable upward or downward adjustments, even if the
adjustment causes the total to exceed $250. If the total fine
after all upward and downward adjustments exceeds $250,
reduce the fine for the violation to $250 as prescribed by
law.

c. If the violation resulted in death or serious
physical or emotional harm to a child, or placed a child at
risk of death or serious physical or emotional harm, increase
the fine by $50.
ii. If a critical violation for child/staff ratio is cited and provider was found to have three or more children above the required ratio, increase the fine by $50.

iii. If a critical violation for child/staff ratio is cited for failure to have a minimum of two staff present, increase the fine by $50.

iv. If the provider had a previous license revoked for the same critical violation cited, increase the fine by $25.

v. If a critical violation for supervision was cited due to a child being left alone outdoors, increase the fine by $25.

vi. If the age of the child cited in the child/staff ratio critical violation is four years of age or younger, increase the fine by $25.

vii. If the age of the child cited in the supervision critical violation is four years of age or younger, increase the fine by $25.

viii. If the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, decrease the fine by $25.

ix. If a critical violation was cited for the provider's incomplete documentation of the motor vehicle check, decrease the fine by $25.

x. If the cited critical violation was for annual state central registry disclosure forms, decrease the fine by
6. For the third violation of one of the same aforementioned categories within a 24 month period, the provider's license may be revoked.

f.1. The director shall report all critical incidents as specified below. For the following critical incidents, immediate notification shall be made to emergency personnel and/or law enforcement, as appropriate. In addition, the child's parent shall be contacted. Once contact or attempted contact has been made to child's parent, the director shall verbally notify Licensing Section Management staff immediately. The verbal report shall be followed by a written report within 24 hours:

a. death of a child while in the care of the provider;

b. illness or injury requiring hospitalization or professional medical attention of a child while in the care of the provider;

c. any child leaving the facility and/or play yard unsupervised or with an unauthorized person;

d. any child left unsupervised on the play yard;

e. use of corporal punishment;

f. suspected abuse and/or neglect by facility staff;

Comment [TWG2]: In all circumstances, implementation of the following regulations and observations among providers in the early care and education industry, how can we move forward with this rule in a timely fashion, keeping in mind that regulations for childcare are the newest section in the rule. Is there a specific type of provider required to comply with this rule? What is the role of the provider? In public school, when an injury occurs, an employee is required to call the police. If the employee is not required to call the police, is there any information about who should be called? Which office?

Comment [TWG3]: This section is very unclear. There are some concerns with RNs being staff. If the RN is staff, is the child sick? What if the parent voluntarily brings the child to the doctor for an evaluation but not treatment? If necessary, does this qualify? With no learning guide, the regulation is left very ambiguous.
g. any child given the wrong medication or an 
overdose of the correct medication;
h. leaving any child in a vehicle unsupervised or 
unsupervised on a field trip;
i. fire on the child care premises if children are 
present;
j. any serious and unusual situation that affects the 
safety and/or well-being of a child or children in the case of 
the provider;
k. any emergency situation that requires sheltering 
in place;
l. implementation of facility lock-down procedures, 
and/or temporarily relocating children;
m. any loss of power over two hours while children 
are in care;
n. an accident involving transportation of children 
in which children were injured; and/or
o. a physical altercation between adults in the 
presence of children on the child care premises.

2. Director shall ensure that appropriate steps have 
been taken to ensure the health and safety of the children in 
sheltering in place and/or lock down situations prior to 
notifying parents and/or Licensing Section management 
staff.

3. Within 24 hours or the next business day, the
director shall verbally notify Licensing Section management
staff of the following reportable incidents. The verbal report
shall be followed by a written report within 24 hours:
a. fire on the child care premises if children not
present;

General Requirements
A. M. ...
N. The physical presence of a sex offender in, on, or
within 1,000 feet of a child day care facility is prohibited.

Providers and child care staff shall not permit an individual
convicted of a sex offense, as defined in R.S. 15:541,
physical access to a child day care facility, as defined in R.S.
46:1403.
O. The owner or director of a child day care facility shall
be required to call and notify law enforcement agencies and
the Licensing Section management staff if a sex offender is
on the premises of the child day care facility or within 1,000
feet of the child day care facility. The licensing office shall
be contacted immediately. The verbal report shall be
followed by a written report.

E. The DCFS form noting required child/staff ratios
shall be posted in each room included in the facility's
licensed capacity.

§7317. Supervision
A. Children shall be supervised at all times in the facility,
on the playground, on field trips, and on non vehicular
excursions, including all water activities and water play
activities.

1. Children shall not be left alone in any room,
(excluding the restroom as noted in §7317.B) outdoors, or in
vehicles, even momentarily, without a staff present.
2. A staff person shall be assigned to supervise

Comment (TWG5): Again, supervise children carefully, not in line with other
providers of childcare and not in areas such as playgrounds and back
yards. This regulation is changing and we should not promulgate a rule knowing it
will soon change. This will cause undue challenges on providers and take away
from their positive outcomes for children.
specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times.

B. Children who are developmentally able may be permitted to go to the restroom on the child care premises independently, provided that:

1. staff member’s proximity to children assures immediate intervention to safeguard a child from harm while in the restroom;

2. individuals who are not staff members may not enter the facility restroom area while in use by any child other than their own child;

3. a child five years of age and younger shall be supervised by staff members who are able to hear the child while in the restroom; and

4. a child six years of age and older may be permitted to go and return from the restroom without staff; however, staff must know the whereabouts of the child at all times.

C. When children are outside on the play yard, the staff member shall be able to summon another adult staff without leaving the group unsupervised.

D. Staff shall actively supervise children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.
E. Children ages two years and above may be grouped
together at rest time with one staff in each room supervising
the resting children. If two rooms share a common doorway,
one staff may supervise the resting children. If the view of
the staff supervising the children is obstructed by an object
such as a low shelving unit, children shall be checked by
sight by staff continually circulating among the resting
children.

F. Areas used by the children shall be lighted in such a
way as to allow visual supervision at all times.

G. While on duty with a group of children, staff shall
devote their entire time to supervising the children, meeting
the needs of the children, and participating with them in their
activities. Staff duties that include cooking, housekeeping,
and/or administrative functions shall not interfere with the
supervision of children.

In closing, I feel as though I have pointed out what the industry calls substantial changes needed before
this rule be made final. I respectfully ask the department to reconsider the changes which I have
mentioned on behalf of the industry.
December 9, 2013

Wyatt Graves
P.O. Box 1449
Walker, LA 70785

Re: Public Hearing Comments (Licensing Class “A” Regulations for Child Care Centers and Licensing Class “B” Regulations for Child Care Centers – Notices of Intent)

Dear Mr. Graves:

This letter is in response to your comments made during a public hearing held by the Department of Children and Family Services (DCFS) on November 26, 2013, regarding the department’s proposed Licensing rules published in the October 20, 2013 Louisiana Register. R.S. 46:1430 granted DCFS the authority to enact sanctions through the use of civil fines in lieu of license revocation with regard to specific violations if the condition or occurrence does not pose an imminent threat to the health, safety, or welfare of a child.

DCFS coordinated with various stakeholders, including the Child Care Association of Louisiana (CCAL) in the development of the proposed rules. The department deems this rule necessary to protect the health, safety, and well-being of the children who receive care in out-of-home licensed child care facilities. We appreciate your comments regarding this rule and thank you for your participation in this process.

Sincerely,

Suzy Sonnier
Secretary

C: Brent Villemarette
   Lisa Andry
   Sammy Guillory
   Angie Badeaux
EXHIBIT #2

WRITTEN COMMENTS FROM CHARLES DEGRAW AND LOUIS TRACHTMAN (Received by Child Support Enforcement)

WRITTEN RESPONSE FROM DCFS SECRETARY SUZY SONNIER
(Dated December 9, 2013)
Ms. Lisa Andry
Deputy Assistant Secretary
Department of Children and Family Services
P.O. Box 94065
Baton Rouge, Louisiana 70804-9065

Dear Ms. Landry:

We in the Department of Health and Hospitals, Office of Public Health, Tuberculosis Control Section have reviewed your Departments Notice of Intent published in the October 2013 issue of the Louisiana Register. Specifically regarding Licensing Class “B” Regulations for Child Care Centers (LAC 67:III.7365). Under 7. Health Requirements b. The reference to tuberculosis and testing should be omitted, as should the reference to Chapter II of the State Sanitary Code.

We feel that the requirement to have no evidence of active tuberculosis is covered well in 7.a. in that staff “must be free from infectious and contagious diseases.” In 2009, the requirements for tuberculin testing in the State Sanitary Code’s Chapter II were changed. That current requirement is in “Chapter II - Chapter 5. §501. Employee Health for Employees, Volunteers and Patients at Certain Medical and Residential Facilities.” There is no requirement in the State Sanitary for “routine” testing of staff in Child Care Centers.

If you have any questions about this recommendation, please let us know. We can be reached via e-mail or by telephone as follows:

Mr. Charles DeGraw Charles.Degraw@la.gov (504) 568-5015 – Program Director
Dr. Louis Trachtman Louis.Trachtman@la.gov (504) 568-5015 – Program Medical Director

Thank you for your consideration of this matter.

Sincerely,

Charles DeGraw

Louis Trachtman, MD, MPH
December 9, 2013

Charles DeGraw, Program Director  
Louis Trachtman, MD, MPH, Program Medical Director  
Department of Health and Hospitals, Office of Public Health  
1450 Poydras Street  
Suite 2029  
New Orleans, LA 70112

Re: Public Hearing Comments (Licensing Class "B" Regulations for Child Care Centers – Notice of Intent)

Dear Mr. DeGraw and Dr. Trachtman:

This letter is in response to your comments submitted to the Department of Children and Family Services (DCFS) regarding the department’s proposed Licensing rule published in the October 20, 2013 Louisiana Register. You expressed concerns related to the Louisiana Administrative Code (LAC 67:III.7365) references to tuberculosis and testing.

We appreciate your comments regarding the Class B licensing regulations related to the standard which requires tuberculosis testing for all child care staff. However the proposed rule does not address changes to the health requirements for staff and will be addressed when the entire rule is revised. We appreciate the time and effort that went into your response regarding this rule and thank you for your participation in this process.

Sincerely,

[Signature]

Suzy Sonnier  
Secretary

C. Brent Villemarette  
Lisa Andry  
Sammy Guillory  
Angie Badeaux
December 10, 2013

The Honorable David Heitmeier, Chairman
Louisiana Senate Committee on Health and Welfare
P. O. Box 94183, Capitol Station
Baton Rouge, Louisiana 70804

Dear Senator Heitmeier:

The Department of Children and Family Services (DCFS) hereby announces its plan to proceed with rulemaking by finalizing the Notice of Intent titled "Licensing Class B Regulations for Child Care Centers" that was promulgated and published on page 2815 of the October 2013 Louisiana Register. Copies of the notice and fiscal statement were provided to you on, or about, October 10, 2013.

In accordance with R.S. 46:1430 and R.S. 46:1409.B (10) the proposed rule will allow DCFS, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms of licensure for specific violations. It will also provide for a process of appeal, clarify specific areas for which a fine may be assessed, and include procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the Department.

DCFS held a public hearing on November 26, 2013. Copies of the summary of testimony from this hearing, comments received, and department responses to comments are attached. Comments submitted were generally in response to fines and health requirements.

While comments received were considered, the department deems the proposed rule necessary to protect the health, safety, and well-being of the children who receive care in out-of-home licensed child care facilities. Therefore, no changes have been made to the proposed rule.

At this time the department intends to submit the Final Rule to the Office of State Register for publication in the January 2014 issue of the Louisiana Register. This Rule is effective February 1, 2014. Please contact me at (225) 342-9538 if the department may be of any assistance to you concerning this matter.

Sincerely,

Brent Villemarette
Deputy Secretary

bv/vg
PUBLIC HEARING

HEARING OFFICER: Alyson R. McCord
LOCATION: Division of Planning and Policy Circulation
Department of Children and Family Services
Iberville Building
Room 1-127
Baton Rouge, Louisiana
DATE: Tuesday, November 26, 2013
TIME: 9:00 a.m.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
DIVISION OF PLANNING AND POLICY CIRCULATION

REGULATIONS FOR CHILD CARE CENTERS AND LICENSING CLASS "A"
REGULATIONS FOR CHILD CARE CENTERS & LICENSING CLASS "B"
REGULATIONS FOR CHILD CARE CENTERS

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>PARTY REPRESENTED IF OTHER THAN SELF</th>
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<tbody>
<tr>
<td>Donna Leger</td>
<td>36349 Bella Vale Dr.</td>
<td>LDE</td>
</tr>
<tr>
<td>Joyce Arnold</td>
<td>3649 Belle Vale Dr.</td>
<td>LDE</td>
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<tr>
<td>Lisa G. Brahma</td>
<td>LDOE</td>
<td>LDE</td>
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<tr>
<td>Angie Badewy</td>
<td>Brookdale Bldg.</td>
<td>Licensing</td>
</tr>
<tr>
<td>Jay McCall</td>
<td>Iberville Bldg</td>
<td>Licensing</td>
</tr>
<tr>
<td>Vashika Gilmore</td>
<td>627 N 4th St.</td>
<td>DCF Planning</td>
</tr>
<tr>
<td>Wyatt Graves</td>
<td>2333 Wimpel Road</td>
<td></td>
</tr>
<tr>
<td>Gayle Kelsie</td>
<td>1201 N 3rd</td>
<td>LDE</td>
</tr>
<tr>
<td>Kimberly Barchell</td>
<td>627 N. 4th</td>
<td>DCF8</td>
</tr>
<tr>
<td>James Evans, Sr.</td>
<td>4521 Martin L. King Ave</td>
<td>Head Start</td>
</tr>
<tr>
<td>K胶囊e Withid</td>
<td>1801 4th Ave. 2nd</td>
<td>Head Start</td>
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</table>
**PUBLIC HEARING**

**HEARING OFFICER:** Alyson R. McCord
**LOCATION:**
Division of Planning and Policy Circulation
Department of Children and Family Services
Iberville Building
Room 1-127
Baton Rouge, Louisiana

**DATE:** Tuesday, November 26, 2013
**TIME:** 9:00 a.m.

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**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**
**DIVISION OF PLANNING AND POLICY CIRCULATION**

**REGULATIONS FOR CHILD CARE CENTERS AND LICENSING CLASS “A”**
**REGULATIONS FOR CHILD CARE CENTERS & LICENSING CLASS “B”**
**REGULATIONS FOR CHILD CARE CENTERS**

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<tbody>
<tr>
<td>Alana Guidry</td>
<td>1026 Gary Dr. Breaux Bridge</td>
<td></td>
</tr>
</tbody>
</table>

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MEMORANDUM

TO: Doris McWhite Weston, Manager
DCFS Appeals Unit

FROM: Alyson R. McCord, Attorney
DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing #262612 regarding the Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers, that is scheduled for November 26, 2013 at 9:00 a.m. in Room 1-127

Please find attached a Summary of the Public Hearing that was conducted on November 26, 2013, at 9:00 a.m., at the Iberville Building, 627 North 4th Street, Baton Rouge, Louisiana, Room 1-127. Also attached is a copy of the attendance roster for your review.
MEMORANDUM

TO: Vashika Gilmore, Program Coordinator
    DCFS Planning and Policy Circulation Section

FROM: Alyson R. McCord, Attorney
    DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing #262612 regarding the Amendments to LAC 67:III, Subpart 21,
    Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304,
    7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A”
    and Class “B” Regulations for Child Care Centers, that is scheduled for
    November 26, 2013 at 9:00 a.m. in Room 1-127

Attached is the original record of the public hearing that was held on November 26, 2013,
in Baton Rouge, Louisiana. Please file the appended record with the appropriate official records
of the department.
PUBLIC HEARING

APPEAL #262612

TUESDAY, NOVEMBER 26, 2013 AT 9:00 A.M.

BATON ROUGE, LOUISIANA

DEPARTMENT OF
CHILDREN AND FAMILY SERVICES
DIVISION OF PROGRAMS/PLANNING

NOTICE OF INTENT FOR:
Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A,
Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335.
Licensing Class “A” Regulations for Child Care Centers and Licensing Class “B”
Regulations for Child Care Centers
CERTIFICATION

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES HEARING OFFICER, ALYSON R. McCORD, DOES HEREBY CERTIFY THAT THE ITEMS IN THE FILE CONSTITUTES THE OFFICIAL RECORD OF THE PUBLIC HEARING. THE HEARING WAS ADJOURNED WITH ___ PUBLIC COMMENT, ___ WRITTEN COMMENT SUBMISSIONS, AND ___ MEMBER(S) OF THE PUBLIC WERE PRESENT TO OFFER REMARKS.

[Signature]

ALYSON R. McCORD
HEARING OFFICER
CERTIFICATION

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES HEARING OFFICER, ALYSON R. McCORD, DOES HEREBY CERTIFY THAT THE ITEMS IN THE FILE AND ON THE TAPE CONSTITUTES THE OFFICIAL RECORD OF THE PUBLIC HEARING HELD ON TUESDAY, NOVEMBER 26, 2013, AT 9:00 A.M. IN BATON ROUGE, LOUISIANA.

[Signature]

ALYSON R. McCORD
HEARING OFFICER
INTEROFFICE MEMORANDUM

TO: Doris Weston  
Manager, Appeals Unit

FROM: Alyson R. McCord  
Attorney, DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing 262612 regards the Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers.

I conducted a Public Hearing in Room 1-127 of the Iberville Building on November 26, 2013, at 9:00 a.m. The hearing commenced at 9:13 a.m.

Presenting on behalf of the agency was Angie Badeaux, Program Director of the Licensing Section of the Department of Children and Family Services. Other agency representatives in attendance were Joy McCall, Vashika Gilmore and Kimberly Bardell. Members of the public in attendance were Donna Leger, Joyce Arnold, Lisa G. Brochard, Wyatt Graves, James Evans, Jr., Kahree Wahid and Alana Guidry.

Hearing Summary

Angie Badeaux testified that in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 21 Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers.
Sections Amendment is pursuant to the authority granted to the department by R.S. 46:1430, the rule allows the Department of Children and Family Services, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms for specific violations, including violations of the requirements related to supervision, criminal history checks, state central registry disclosure forms, staff-to-child-ratios, motor vehicle checks, or failing to report critical incidents, if such condition or occurrence does not pose an imminent threat to the health, safety, rights or welfare of a child. These civil fines would not be more than $250 per day for each assessment, and the aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed $2,000. In addition, the rule provides for a process of appeal and notes that all civil fines collected from providers will be placed in the Child Care Licensing Trust Fund for the education and training of employees, staff, or other personnel of child care facilities and child-placing agencies. The rule also offers clarification and revisions to the specific areas for which a fine may be assessed to include supervision, criminal history checks, state central registry disclosure forms, staff-to-child ratios, motor vehicle checks, and critical incidents. In accordance with R.S. 46:1409.B (10), the rule includes procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the department.

**Public Comments from Wyatt Graves of Fundamentals Learning Center**

"My name is Wyatt Graves and I am the Immediate Past President of the Childcare Association of Louisiana and the Owner and Director of seven licensed childcare centers between St. Tammany, Livingston and East Baton Rouge Parishes. I am also a participant in one of the thirteen statewide pilots offered by the Louisiana Department of Education. I have been closely involved with the current initiative to streamline licensing and regulations relative to the senate bill of the 2013 session. It is from that involvement that I have formed the opinion and professional recommendation that this rule is fundamentally flawed. I say this on record also having been part of the work group which wrote and is writing the original draft of this version of this rule. While we support the act of fines, especially as an alternative to the licensing process, we cannot support this rule in its entirety. I want to call attention to the department's ability, already in law, to create a provisional license for those centers who may be in serious deficiencies with meeting those regulations. The rule being promulgated and heard today was
drafted in 2012, which was prior to the 2013 legislative session regarding the streamlining of licensing types and regulations to enhance the overall quality of care in early education offered to Louisiana’s children. During the drafting of this rule in 2012, there was no separate formed to re-write the entire set of regulations which the rule is based upon. There is no insight that we have new licensing and the new quality rating system coming up in the future. This rule was drafted based on old methods of regulations and old content for such regulations. As of now, the entire mindset seems to have changed of regulating childcare. It has evolved and even morphed into something completely new. It is because of the significant changes in direction for regulating childcare and building support for childcare systems to improve quality that I stand with my colleagues and fellow members of the Childcare Association of Louisiana, all 500 plus members, and oppose this rule in its current form. Specifically, the reasons are as follows. Specific problems with this rule are found in the actual violations which will result in a fine. The one in particular is supervision. This particular regulation, due to its unrealistic nature, has caused the industry undue problems. It’s because of this historical track record that current efforts are being taken to revise the definition of this violation. How can the state move forward with this rule to fine providers based on a regulation that everyone knows is going to change? Furthermore, how can we knowingly implement rules and spend time educating providers and licensing specialists on the new definition to rightly assess this regulation which will lead to fines, only to change the definition, which will likely lead to a new meaning whereby previously written deficiencies and fines would not have been written under the new meaning? Again, those regulations that I am calling into question and is a problem is supervision, which is being cited as one of the critical violations. Under the definition, of supervision and also understanding how we calculate a repeat deficiency, this rule is saying ‘even if one or more of the violations occurred prior to the adoption of the current set of standards’. So in reference to that section of this rule, I’d like to say that in the event that a fine bill is put into practice, the industry and advocates for children and families agree that all records of compliance should begin with the inception of this rule becoming final; not retroactively implemented. The fines bill, from the introduction of the bill into session was designed to promote compliance with providers. Implementing retroactive fines could lead to automatic fining of providers who otherwise could have changed their practices if the plans of corrections process, which is also part of this rule, were in place. It would give providers a change to have corrective plans of action in place before
automatically attacking them with a multiple violation report, which could yield to fines. If we believe that a corrective plan of action is something that we want to implement, which we do believe that, and we support that part of the bill, then we’ve got to give providers an opportunity to implement a corrective plan of action before we look at retroactive compliance with this particular regulation.

Another point of contention is . . . I don’t have the specific section number, but its F1 under a particular section. The Director shall report all critical incidents as specified below. But the following critical incidents immediate notification made to emergency personnel and/or law enforcement as appropriate. In addition, the child’s parent shall be contacted. Once contact has been made to the child’s parent, the Director shall verbally notify the licensing section management staff immediately. The verbal report shall be followed by a written report within 24 hours. So, in reference to that section, in an environment of streamlining regulations and expectations among providers in the early care and education industry, how can we move forward with this rule or regulation where children is the only . . . where childcare, I’m sorry . . . childcare is the only section required to comply with this rule? What is done in public schools when an injury occurs? Are Principals required to call LDE or the Police? If the answer is no and we genuinely care about parity in the system, then this rule and this section needs to be modified.

A little further down in Section B, which is one of the reasons that . . . uhm, the rule is specifying immediate report be made to the department. Illness or injury requiring hospitalization or professional medical attention of a child, while in the care of the provider, in reference to this section, we’ve mentioned that this section is very unclear. There are some centers who have registered nurses on staff. If the R.N. looks at the child or assesses the child, does that qualify? What if the parent voluntarily brings the child to the doctor for an evaluation, but no treatment is necessary, does this qualify? With no interpretive guide, this regulation is left ambiguous and literally leads to providers wanting to call the state for every incident that potentially has the harm or change of being referred out to a physician even if it is a child who falls and hits their mouth on a toy and the parent brings them to a dentist. Does that qualify? That’s a question.
The physical presence, under General Requirements. We've brought this up in the past too and it doesn't seem that it's addressed in the rule. The physical presence of a sex offender in or on within a thousand feet of a child daycare facility is prohibited. Providers and childcare staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541, physical access to a child daycare facility is defined in R.S. 46:1403. And so, when this rule was talked about there is a legitimate question which is customers who are listed on the registered sex offenders list as we understand a person can be convicted of a sex offense that involves prostitution of legal adults and also be a sex offender or a mother for that matter and wish to enroll their child in one of our schools. This is already happening and we are unclear as to how we will be treated by knowingly allowing them to enter our facilities as a customer. This rule particularly, in this section, needs to be modified and explicit expectations need to be listed for that situation.

Under supervision, I think in the definition of it, children shall not be left alone in any room, excluding the restrooms as noted in section 73:17(B) outdoors or in vehicles, even momentarily, without a staff present. Relative to that section, again, um, a little bit unrealistic and certainly not in line with the other providers of childcare and early education such as preschools and those school settings from a public school campus. The regulations seem to be changing and we should not promulgate a rule knowing that its going to change soon, especially in light of the retroactive look back period which will result in monetary fines.

Section 2 of that same, um, paragraph, a staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff should be able to state how many children are in their care at all times. This is particularly a problem for programs who fall under this license code, but serve after schoolers, especially those that have zones for children to attend and freely choose throughout the day or afternoon. This part of the rule we do not recall being reviewed with the industry and especially this conclusion of the rule. This was ... this regulation does not and will not work with providers who are caring for after schoolers. A quality and proven method for successfully administering an after school program is what we call zone management. Children are free; which are typically six, seven ... all the way up to eleven and twelve and sometimes thirteen years of age, to select and move between rooms or activities
frequently, making their own independent decision if they want to watch a movie or play basketball or go to the arcade room or do an arts and crafts activity and they are frequently making those selections throughout the day. Therefore not assigned to a particular staff member, but rather a group of staff members who are managing such zones. This regulation should be changed or omitted for after schoolers particularly.

In closing, I feel as though I’ve pointed out where the industry called substantial changes that need to be made before the rule will work for the industry in the current climate of change. I respectfully ask for the department to reconsider the changes which I’ve mentioned on behalf of the industry and my business. Thank you.”

Adjournment

The hearing was adjourned at 9:29 a.m.

Respectfully Submitted by Alyson R. McCord, Hearing Officer
EXHIBIT #1

WRITTEN COMMENTS FROM WYATT GRAVES (Submitted via email)

WRITTEN RESPONSE FROM DCFS SECRETARY SUZY SONNIER
(Dated December 9, 2013)
My name is Wyatt Graves, and I am the immediate past president of the Child Care Association of Louisiana and the owner/director of 7 licensed childcare centers between St. Tammany, Livingston, and East Baton Rouge parishes. I am also a participant in one of the 13 state-wide pilots offered by DE. I have been closely involved with the current initiative to streamline licensing and regulations relative to Senate Bill 222 of the 2013 session. It is from that involvement that I have formed the opinion and professional recommendation that this rule is fundamentally flawed. I say this, on record, also having been part of the work group which wrote drafted the original version of this rule.

While we support the set of fines, especially as an alternative to license revocation, we cannot support this rule in its entirety. I want to call attention to the Department's current ability to create a license with a provisional status for those who need licenses to be monitored more heavily and to serve as an alternative to license revocation.

The rule being promulgated and heard today was drafted in 2012 which was prior to the 2013 legislation regarding the streamlining of licensing types and regulations to enhance the overall quality of care and early education offered to Louisiana's children. During the drafting of this rule, there was no such committee formed to rewrite the entire set of regulations which this rule is based. There was no debate that we'd have new types of licensing and a new quality rating system. This rule was drafted based on old methods of regulations and old content for such regulations. As of now, the entire mindset of regulating childcare has changed, evolved, and morphed into something completely new. It is because of the significant changes in direction for regulating childcare and building support for childcare systems to improve quality that I stand with my colleagues and fellow members of the Childcare Association of Louisiana to oppose this rule in its current form.

Specific reasons are as follows:

Specific problems with this rule are found in the actual violations which will result in a fine. The one in particular is supervision. This particular regulation, due to its unrealistic nature, has caused the industry undue problems. It's because of this historical track record that current efforts are being taken to revise the very definition of the violation. How can this state move forward with a rule to fine providers based on a regulation that everyone in the state department knows is going to change? Furthermore, how can we knowingly implement rules and spend time educating providers and licensing specialists on the new definition to rightly assess which may lead to fines — only to change the definition which will likely lead to a new meaning whereby previously written deficiencies and fines would not have been written under the new meaning?

- §7302.6 and/or §7311.A.5 and/or §7311.B - criminal background check;
- §7302.6 and/or §7311.A.6 - state central registry disclosure;
c. §7303. F.1 and/or §7303. F.S - critical incidents;

e. §7315. A - D - ratio,

d. §7317 - supervision; and/or supervision is one of the critical violations

f. §7331. N - motor vehicle.

In determining whether multiple violations of one

of the above categories has occurred, both for purposes of

this section and for purposes of establishing a history of non-compliance,

all such violations cited during any 24 month

period shall be counted, even if one or more of the violations

occurred prior to the adoption of the current set of standards.

if one or more of the violations occurred prior to adoption of

the current set of standards, a violation is deemed to have

been repeated if the regulation previously violated is

substantially similar to the present rule.

4.a. For the first violation of one of the aforementioned

categories, if the department does not revoke or not renew

the license, the department may issue a formal warning letter

noting the department's intent to take administrative action if

further violations of the same category occur.

b. The warning letter shall include a directed

Corrective Action Plan (CAP) which shall outline the

necessary action and timeframe for such action that a

provider shall take in order to maintain compliance with the

licensing regulations. The Provider shall acknowledge

receipt of the warning letter by submitting a written response

Comment (Twose): In the event a

fine bill is put into practice, the industry

and advocates for children and families

agree that if records of noncompliance

should begin with the inception of the

rule becoming final - not retroactively

implemented. The fine bill, from the

introduction of the bill through passage

designed to promote compliance with

provisions. Implementing retroactive

fines could add to automatic licensing of

providers who otherwise would have

changed their practices if the plans of

correction process (which this rule

established) were in place. Give

providers a chance to have corrective

plans of action in place before

automatically attacking them with a

multiple violation report yielding fines.
to the CAP within 14 calendar days of receipt of the letter.

Failure by the provider to submit requested information

and/or failure to implement the CAP as evidenced by a

repeated violation of the same category of the regulations

may result in either the assessment of a civil fine,

revocation/non-renewal of license, or both.

5.a. For the second violation of one of the same

aforementioned categories within a 24 month period,

provider will be assessed a civil fine of up to $250 per day

for violation of each of the aforementioned categories (if

same category cited twice) and fined for each day the

provider was determined to be out of compliance with one of

the aforementioned categories according to the following

schedule of fines:

b. The base fine level for all violations shall be

$200 per day. From the base fine level, factor in any

applicable upward or downward adjustments, even if the

adjustment causes the total to exceed $250. If the total fine

after all upward and downward adjustments exceeds $250,

reduce the fine for the violation to $250 as prescribed by

law.

c. If the violation resulted in death or serious

physical or emotional harm to a child, or placed a child at

risk of death or serious physical or emotional harm, increase

the fine by $50.
ii. If a critical violation for child/staff ratio is
cited and provider was found to have three or more children
above the required ratio, increase the fine by $50.

iii. If a critical violation for child/staff ratio is
cited for failure to have a minimum of two staff present,
increase the fine by $50.

iv. If the provider had a previous license revoked
for the same critical violation cited, increase the fine by $25.

v. If a critical violation for supervision was cited
due to a child being left alone outdoors, increase the fine by
$25.

vi. If the age of the child cited in the child/staff
ratio critical violation is four years of age or younger,
increase the fine by $25.

vii. If the age of the child cited in the supervision
critical violation is four years of age or younger, increase the
fine by $25.

viii. If the critical violation was cited and occurred
despite the objective good faith best efforts of licensee to
comply, decrease the fine by $25.

ix. If a critical violation was cited for the
provider's incomplete documentation of the motor vehicle
check, decrease the fine by $25.

x. If the cited critical violation was for annual
state central registry disclosure forms, decrease the fine by
xi. If the provider self-reported the incident which caused the critical violation to be cited, decrease the fine by $25.

6. For the third violation of one of the same aforementioned categories within a 24 month period, the provider's license may be revoked.

f.1. The director shall report all critical incidents as specified below. For the following critical incidents, immediate notification shall be made to emergency personnel and/or law enforcement, as appropriate. In addition, the child's parent shall be contacted. Once contact or attempted contact has been made to child's parent, the director shall verbally notify Licensing Section-Management staff immediately. The verbal report shall be followed by a written report within 24 hours:

a. death of a child while in the care of the provider;

b. illness or injury requiring hospitalization or professional medical attention of a child while in the care of the provider;

c. any child leaving the facility and/or play yard unsupervised or with an unauthorized person;

d. any child left unsupervised on the play yard;

e. use of corporal punishment;

f. suspected abuse and/or neglect by facility staff;

---

Comment [TWG2]: In an effort to implement effective regulations and observations among providers in the early care and education industry, how can we move forward with this new regulation when childcare is the Oldest profession/very few providers are regulated to comply with this rule? What is the regulation asking for? Are principals required to call LPA? If the provider is no, and we are genuinely concerned about priority in our system, how the rule needs to be modified. From what I understand, the provider and administrator is seeking clarity.

Comment [TWG3]: This section is very unclear. There are some conflicts with 80C.39.560. If the WIC child is the "child at risk," is the child down to this category? What if the parent voluntarily brings the child to the center for an immunization but not treatment of any medical condition? Does this category apply? With no immunization guide, the regulation is left very ambiguous.
g. any child given the wrong medication or an overdose of the correct medication;
h. leaving any child in a vehicle unsupervised or unsupervised on a field trip;
i. fire on the child care premises if children are present;
j. any serious and unusual situation that affects the safety and/or well-being of a child or children in the case of the provider;
k. any emergency situation that requires sheltering in place;
l. implementation of facility lock-down procedures, and/or temporarily relocating children;
m. any loss of power over two hours while children are in care;
n. any accident involving transportation of children in which children were injured; and/or
o. any physical altercation between adults in the presence of children on the child care premises.

2. Director shall ensure that appropriate steps have been taken to ensure the health and safety of the children in sheltering in place and/or lock down situations prior to notifying parents and/or Licensing Section management staff.

3. Within 24 hours or the next business day, the
director shall verbally notify Licensing Section management
staff of the following reportable incidents. The verbal report
shall be followed by a written report within 24 hours:

a. fire on the child care premises if children not
   present;

General Requirements
A. - M. ...
N. The physical presence of a sex offender in, on, or
   within 1,000 feet of a child day care facility is prohibited.

Providers and child care staff shall not permit an individual
convicted of a sex offense, as defined in R.S. 15:541,
physical access to a child day care facility, as defined in R.S.
46:1403.
O. The owner or director of a child day care facility shall
   be required to call and notify law enforcement agencies and
   the Licensing Section management staff if a sex offender is
   on the premises of the child day care facility or within 1,000
   feet of the child day care facility. The licensing office shall
   be contacted immediately. The verbal report shall be
   followed by a written report.

E. The DCFS form noting required child/staff ratios
   shall be posted in each room included in the facility's
   licensed capacity.

§7317. Supervision
A. Children shall be supervised at all times in the facility,
on the playground, on field trips, and on non vehicular
excursions, including all water activities and water play
activities.

1. Children shall not be left alone in any room,
   (excluding the restroom as noted in §7317.B) outdoors, or in
   vehicles, even momentarily, without a staff present.

2. A staff person shall be assigned to supervise

Comment [TWGS]: Again, supervisors
and any other staff are to be in line with other
providers of childcare and early
education such as preschools and day
cares. This regulation is changing and we
should not promulgate a rule knowing it
will soon change. This will cause undue
challenges on providers and take away
from the positive outcomes for children.
specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times;

B. Children who are developmentally able may be permitted to go to the restroom on the child care premises independently, provided that:

1. staff member's proximity to children assures immediate intervention to safeguard a child from harm while in the restroom;

2. individuals who are not staff members may not enter the facility restroom area while in use by any child other than their own child;

3. a child five years of age and younger shall be supervised by staff members who are able to hear the child while in the restroom; and

4. a child six years of age and older may be permitted to go and return from the restroom without staff; however, staff must know the whereabouts of the child at all times.

C. When children are outside on the play yard, the staff member shall be able to summon another adult staff without leaving the group unsupervised.

D. Staff shall actively supervise children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.
E. Children ages two years and above may be grouped together at rest time with one staff in each room supervising the resting children. If two rooms share a common doorway, one staff may supervise the resting children. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff continually circulating among the resting children.

F. Areas used by the children shall be lighted in such a way as to allow visual supervision at all times.

G. While on duty with a group of children, staff shall devote their entire time to supervising the children, meeting the needs of the children, and participating with them in their activities. Staff duties that include cooking, housekeeping, and/or administrative functions shall not interfere with the supervision of children.

In closing, I feel as though I have pointed out what the industry calls substantial changes needed before this rule be made final. I respectfully ask the department to reconsider the changes which I have mentioned on behalf of the industry.
December 9, 2013

Wyatt Graves  
P.O. Box 1449  
Walker, LA 70785

Re: Public Hearing Comments (Licensing Class "A" Regulations for Child Care Centers and Licensing Class "B" Regulations for Child Care Centers – Notices of Intent)

Dear Mr. Graves:

This letter is in response to your comments made during a public hearing held by the Department of Children and Family Services (DCFS) on November 26, 2013, regarding the department’s proposed Licensing rules published in the October 20, 2013 Louisiana Register. R.S. 46:1430 granted DCFS the authority to enact sanctions through the use of civil fines in lieu of license revocation with regard to specific violations if the condition or occurrence does not pose an imminent threat to the health, safety, or welfare of a child.

DCFS coordinated with various stakeholders, including the Child Care Association of Louisiana (CCAL) in the development of the proposed rules. The department deems this rule necessary to protect the health, safety, and well-being of the children who receive care in out-of-home licensed child care facilities. We appreciate your comments regarding this rule and thank you for your participation in this process.

Sincerely,

Suzy Sonnier
Secretary

C: Brent Villemarette  
Lisa Andry  
Sammy Guillory  
Angie Badeaux
EXHIBIT #2

WRITTEN COMMENTS FROM CHARLES DEGRAW AND LOUIS TRACHTMAN (Received by Child Support Enforcement)

WRITTEN RESPONSE FROM DCFS SECRETARY SUZY SONNIER
(Dated December 9, 2013)
Ms. Lisa Andry  
Deputy Assistant Secretary  
Department of Children and Family Services  
P.O. Box 94065  
Baton Rouge, Louisiana 70804-9065

Dear Ms. Landry:

We in the Department of Health and Hospitals, Office of Public Health, Tuberculosis Control Section have reviewed your Departments Notice of Intent published in the October 2013 issue of the Louisiana Register. Specifically regarding Licensing Class “B” Regulations for Child Care Centers (LAC 67:III.7365). Under 7. Health Requirements b. The reference to tuberculosis and testing should be omitted, as should the reference to Chapter II of the State Sanitary Code.

We feel that the requirement to have no evidence of active tuberculosis is covered well in 7.a. in that staff “must be free from infectious and contagious diseases.” In 2009, the requirements for tuberculin testing in the State Sanitary Code’s Chapter II were changed. That current requirement is in “Chapter II - Chapter 5. §501. Employee Health for Employees, Volunteers and Patients at Certain Medical and Residential Facilities.” There is no requirement in the State Sanitary for “routine” testing of staff in Child Care Centers.

If you have any questions about this recommendation, please let us know. We can be reached via e-mail or by telephone as follows:
Mr. Charles DeGraw Charles.DeGraw@la.gov (504) 568-5015 – Program Director  
Dr. Louis Trachtman Louis.Trachtman@la.gov (504) 568-5015 – Program Medical Director

Thank you for your consideration of this matter.

Sincerely,

Charles DeGraw  
Louis Trachtman, MD, MPH

Bienville Building • 628 N. 4th Street • P.O. Box 3214 • Baton Rouge, Louisiana 70821-3214  
Phone #: 225/342-8093 • Fax #: 225/342-8448 • WWW.DHH.LA.GOV  
“An Equal Opportunity Employer”
December 9, 2013

Charles DeGraw, Program Director  
Louis Trachtman, MD, MPH, Program Medical Director  
Department of Health and Hospitals, Office of Public Health  
1450 Poydras Street  
Suite 2029  
New Orleans, LA 70112

Re: Public Hearing Comments (Licensing Class “B” Regulations for Child Care Centers – Notice of Intent)

Dear Mr. DeGraw and Dr. Trachtman:

This letter is in response to your comments submitted to the Department of Children and Family Services (DCFS) regarding the department’s proposed Licensing rule published in the October 20, 2013 Louisiana Register. You expressed concerns related to the Louisiana Administrative Code (LAC 67:III.7365) references to tuberculosis and testing.

We appreciate your comments regarding the Class B licensing regulations related to the standard which requires tuberculosis testing for all child care staff. However the proposed rule does not address changes to the health requirements for staff and will be addressed when the entire rule is revised. We appreciate the time and effort that went into your response regarding this rule and thank you for your participation in this process.

Sincerely,

Suzy Sonnier  
Secretary

C. Brent Villemarette  
Lisa Andry  
Sammy Guillory  
Angie Badeaux
December 10, 2013

The Honorable John Alario
President of the Senate
Louisiana State Senate
P. O. Box 94183, Capitol Station
Baton Rouge, Louisiana 70804

Dear Senator Alario:

The Department of Children and Family Services (DCFS) hereby announces its plan to proceed with rulemaking by finalizing the Notice of Intent titled “Licensing Class B Regulations for Child Care Centers” that was promulgated and published on page 2815 of the October 2013 Louisiana Register. Copies of the notice and fiscal statement were provided to you on, or about, October 10, 2013.

In accordance with R.S. 46:1430 and R.S. 46:1409.B (10) the proposed rule will allow DCFS, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms of licensure for specific violations. It will also provide for a process of appeal, clarify specific areas for which a fine may be assessed, and include procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the Department.

DCFS held a public hearing on November 26, 2013. Copies of the summary of testimony from this hearing, comments received, and department responses to comments are attached. Comments submitted were generally in response to fines and health requirements.

While comments received were considered, the department deems the proposed rule necessary to protect the health, safety, and well-being of the children who receive care in out-of-home licensed child care facilities. Therefore, no changes have been made to the proposed rule.

At this time the department intends to submit the Final Rule to the Office of State Register for publication in the January 2014 issue of the Louisiana Register. This Rule is effective February 1, 2014. Please contact me at (225) 342-9538 if the department may be of any assistance to you concerning this matter.

Sincerely,

Brent Villemarette
Deputy Secretary

bv/vg
PUBLIC HEARING

HEARING OFFICER: Alyson R. McCord
LOCATION: Division of Planning and Policy Circulation
Department of Children and Family Services
Iberville Building
Room 1-127
Baton Rouge, Louisiana

DATE: Tuesday, November 26, 2013
TIME: 9:00 a.m.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
DIVISION OF PLANNING AND POLICY CIRCULATION

REGULATIONS FOR CHILD CARE CENTERS AND LICENSING CLASS “A”
REGULATIONS FOR CHILD CARE CENTERS & LICENSING CLASS “B”
REGULATIONS FOR CHILD CARE CENTERS

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<th>NAME</th>
<th>ADDRESS</th>
<th>PARTY REPRESENTED IF OTHER THAN SELF</th>
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<tbody>
<tr>
<td>Donna Leger</td>
<td>3649 Belle Vale Dr.</td>
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<td>Joyce Arnold</td>
<td>3649 Belle Vale Dr.</td>
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<td>Lisa G. Brahan</td>
<td>LDOE</td>
<td>LDE</td>
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<tr>
<td>Angie Baden</td>
<td>Bossier Bldg.</td>
<td>Licensing</td>
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<td>Joy McCall</td>
<td>Iberville Bldg.</td>
<td>Licensing</td>
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<tr>
<td>Vishaka Gilmore</td>
<td>627 N 4th St.</td>
<td>DCRS Planning</td>
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<tr>
<td>Wyatt Graves</td>
<td>2538 Winged Foot</td>
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<tr>
<td>Gail Kelso</td>
<td>1201 N 3rd</td>
<td>LDE</td>
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<tr>
<td>Kimberly Bartelli</td>
<td>627 N. 4th</td>
<td>DCF8</td>
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<tr>
<td>James Evans, Jr.</td>
<td>4521 Martin L. Ike</td>
<td>Head Start</td>
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<tr>
<td>Kahlee Withid</td>
<td>1301 North 3rd St.</td>
<td>Head Start</td>
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PUBLIC HEARING

HEARING OFFICER: Alyson R. McCord
LOCATION: Division of Planning and Policy Circulation
Department of Children and Family Services
Iberville Building
Room 1-127
Baton Rouge, Louisiana
DATE: Tuesday, November 26, 2013
TIME: 9:00 a.m.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES
DIVISION OF PLANNING AND POLICY CIRCULATION

REGULATIONS FOR CHILD CARE CENTERS AND LICENSING CLASS "A"
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<td>Alana Guidry</td>
<td>10260 Gary Dr.</td>
<td>Breaux Bridge</td>
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MEMORANDUM

TO: Doris McWhite Weston, Manager
    DCFS Appeals Unit

FROM: Alyson R. McCord, Attorney
      DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing #262612 regarding the Amendments to LAC 67:III, Subpart 21,
    Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304,
    7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A”
    and Class “B” Regulations for Child Care Centers, that is scheduled for
    November 26, 2013 at 9:00 a.m. in Room 1-127

*******************************************************************************

Please find attached a Summary of the Public Hearing that was conducted on November
26, 2013, at 9:00 a.m., at the Iberville Building, 627 North 4th Street, Baton Rouge, Louisiana,
Room 1-127. Also attached is a copy of the attendance roster for your review.
MEMORANDUM

TO: Vashika Gilmore, Program Coordinator  
   DCFS Planning and Policy Circulation Section

FROM: Alyson R. McCord, Attorney  
   DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing #262612 regarding the Amendments to LAC 67:III, Subpart 21,  
Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304,  
7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A”  
and Class “B” Regulations for Child Care Centers, that is scheduled for  
November 26, 2013 at 9:00 a.m. in Room 1-127

******************************************************************************************

Attached is the original record of the public hearing that was held on November 26, 2013,  
in Baton Rouge, Louisiana. Please file the appended record with the appropriate official records  
of the department.
PUBLIC HEARING

APPEAL #262612

TUESDAY, NOVEMBER 26, 2013 AT 9:00 A.M.

BATON ROUGE, LOUISIANA

DEPARTMENT OF
CHILDREN AND FAMILY SERVICES
DIVISION OF PROGRAMS/PLANNING

NOTICE OF INTENT FOR:
Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A,
Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335.
Licensing Class “A” Regulations for Child Care Centers and Licensing Class “B”
Regulations for Child Care Centers
CERTIFICATION

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES HEARING OFFICER, ALYSON R. McCORD, DOES HEREBY CERTIFY THAT THE ITEMS IN THE FILE CONSTITUTES THE OFFICIAL RECORD OF THE PUBLIC HEARING. THE HEARING WAS ADJOURNED WITH ___ PUBLIC COMMENT, ___ WRITTEN COMMENT SUBMISSIONS, AND ___ MEMBER(S) OF THE PUBLIC WERE PRESENT TO OFFER REMARKS.

[Signature]

ALYSON R. McCORD
HEARING OFFICER
CERTIFICATION

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES HEARING OFFICER, ALYSON R. McCORD, DOES HEREBY CERTIFY THAT THE ITEMS IN THE FILE AND ON THE TAPE CONSTITUTES THE OFFICIAL RECORD OF THE PUBLIC HEARING HELD ON TUESDAY, NOVEMBER 26, 2013, AT 9:00 A.M. IN BATON ROUGE, LOUISIANA.

[Signature]

ALYSON R. McCORD
HEARING OFFICER
INTEROFFICE MEMORANDUM

TO: Doris Weston
Manager, Appeals Unit

FROM: Alyson R. McCord
Attorney, DCFS Appeals Unit

DATE: November 26, 2013

RE: Public Hearing 262612 regards the Amendments to LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers.

I conducted a Public Hearing in Room 1-127 of the Iberville Building on November 26, 2013, at 9:00 a.m. The hearing commenced at 9:13 a.m.

Presenting on behalf of the agency was Angie Badeaux, Program Director of the Licensing Section of the Department of Children and Family Services. Other agency representatives in attendance were Joy McCall, Vashika Gilmore and Kimberly Bardell. Members of the public in attendance were Donna Leger, Joyce Arnold, Lisa G. Brochard, Wyatt Graves, James Evans, Jr., Kahree Wahid and Alana Guidry.

Hearing Summary

Angie Badeaux testified that in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 21 Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333 and 7335; relative to Licensing Class “A” and Class “B” Regulations for Child Care Centers.
Sections Amendment is pursuant to the authority granted to the department by R.S. 46:1430, the rule allows the Department of Children and Family Services, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms for specific violations, including violations of the requirements related to supervision, criminal history checks, state central registry disclosure forms, staff-to-child-ratios, motor vehicle checks, or failing to report critical incidents, if such condition or occurrence does not pose an imminent threat to the health, safety, rights or welfare of a child. These civil fines would not be more than $250 per day for each assessment, and the aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed $2,000. In addition, the rule provides for a process of appeal and notes that all civil fines collected from providers will be placed in the Child Care Licensing Trust Fund for the education and training of employees, staff, or other personnel of child care facilities and child-placing agencies. The rule also offers clarification and revisions to the specific areas for which a fine may be assessed to include supervision, criminal history checks, state central registry disclosure forms, staff-to-child ratios, motor vehicle checks, and critical incidents. In accordance with R.S. 46:1409.B (10), the rule includes procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the department.

Public Comments from Wyatt Graves of Fundamentals Learning Center

"My name is Wyatt Graves and I am the Immediate Past President of the Childcare Association of Louisiana and the Owner and Director of seven licensed childcare centers between St. Tammany, Livingston and East Baton Rouge Parishes. I am also a participant in one of the thirteen statewide pilots offered by the Louisiana Department of Education. I have been closely involved with the current initiative to streamline licensing and regulations relative to the senate bill of the 2013 session. It is from that involvement that I have formed the opinion and professional recommendation that this rule is fundamentally flawed. I say this on record also having been part of the work group which wrote and is writing the original draft of this version of this rule. While we support the act of fines, especially as an alternative to the licensing process, we cannot support this rule in its entirety. I want to call attention to the department's ability, already in law, to create a provisional license for those centers who may be in serious deficiencies with meeting those regulations. The rule being promulgated and heard today was
drafted in 2012, which was prior to the 2013 legislative session regarding the streamlining of licensing types and regulations to enhance the overall quality of care in early education offered to Louisiana’s children. During the drafting of this rule in 2012, there was no separate formed to re-write the entire set of regulations which the rule is based upon. There is no insight that we have new licensing and the new quality rating system coming up in the future. This rule was drafted based on old methods of regulations and old content for such regulations. As of now, the entire mindset seems to have changed of regulating childcare. It has evolved and even morphed into something completely new. It is because of the significant changes in direction for regulating childcare and building support for childcare systems to improve quality that I stand with my colleagues and fellow members of the Childcare Association of Louisiana, all 500 plus members, and oppose this rule in its current form. Specifically, the reasons are as follows. Specific problems with this rule are found in the actual violations which will result in a fine. The one in particular is supervision. This particular regulation, due to its unrealistic nature, has caused the industry undue problems. It’s because of this historical track record that current efforts are being taken to revise the definition of this violation. How can the state move forward with this rule to fine providers based on a regulation that everyone knows is going to change? Furthermore, how can we knowingly implement rules and spend time educating providers and licensing specialists on the new definition to rightly assess this regulation which will lead to fines, only to change the definition, which will likely lead to a new meaning whereby previously written deficiencies and fines would not have been written under the new meaning? Again, those regulations that I am calling into question and is a problem is supervision, which is being cited as one of the critical violations. Under the definition, of supervision and also understanding how we calculate a repeat deficiency, this rule is saying ‘even if one or more of the violations occurred prior to the adoption of the current set of standards’. So in reference to that section of this rule, I’d like to say that in the event that a fine bill is put into practice, the industry and advocates for children and families agree that all records of compliance should begin with the inception of this rule becoming final; not retroactively implemented. The fines bill, from the introduction of the bill into session was designed to promote compliance with providers. Implementing retroactive fines could lead to automatic fining of providers who otherwise could have changed their practices if the plans of corrections process, which is also part of this rule, were in place. It would give providers a change to have corrective plans of action in place before
automatically attacking them with a multiple violation report, which could yield to fines. If we believe that a corrective plan of action is something that we want to implement, which we do believe that, and we support that part of the bill, then we’ve got to give providers an opportunity to implement a corrective plan of action before we look at retroactive compliance with this particular regulation.

Another point of contention is ... I don’t have the specific section number, but it’s F1 under a particular section. The Director shall report all critical incidents as specified below. But the following critical incidents immediate notification made to emergency personnel and/or law enforcement as appropriate. In addition, the child’s parent shall be contacted. Once contact has been made to the child’s parent, the Director shall verbally notify the licensing section management staff immediately. The verbal report shall be followed by a written report within 24 hours. So, in reference to that section, in an environment of streamlining regulations and expectations among providers in the early care and education industry, how can we move forward with this rule or regulation where children is the only ... where childcare, I’m sorry ... childcare is the only section required to comply with this rule? What is done in public schools when an injury occurs? Are Principals required to call LDE or the Police? If the answer is no and we genuinely care about parity in the system, then this rule and this section needs to be modified.

A little further down in Section B, which is one of the reasons that ... uhm, the rule is specifying immediate report be made to the department. Illness or injury requiring hospitalization or professional medical attention of a child, while in the care of the provider, in reference to this section, we’ve mentioned that this section is very unclear. There are some centers who have registered nurses on staff. If the R.N. looks at the child or assesses the child, does that qualify? What if the parent voluntarily brings the child to the doctor for an evaluation, but no treatment is necessary, does this qualify? With no interpretive guide, this regulation is left ambiguous and literally leads to providers wanting to call the state for every incident that potentially has the harm or change of being referred out to a physician even if it is a child who falls and hits their mouth on a toy and the parent brings them to a dentist. Does that qualify? That’s a question.
The physical presence, under General Requirements. We’ve brought this up in the past too and it doesn’t seem that it’s addressed in the rule. The physical presence of a sex offender in or on within a thousand feet of a child daycare facility is prohibited. Providers and childcare staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541, physical access to a child daycare facility is defined in R.S. 46:1403. And so, when this rule was talked about there is a legitimate question which is customers who are listed on the registered sex offenders list as we understand a person can be convicted of a sex offense that involves prostitution of legal adults and also be a sex offender or a mother for that matter and wish to enroll their child in one of our schools. This is already happening and we are unclear as to how we will be treated by knowingly allowing them to enter our facilities as a customer. This rule particularly, in this section, needs to be modified and explicit expectations need to be listed for that situation.

Under supervision, I think in the definition of it, children shall not be left alone in any room, excluding the restrooms as noted in section 73:17(B) outdoors or in vehicles, even momentarily, without a staff present. Relative to that section, again, um, a little bit unrealistic and certainly not in line with the other providers of childcare and early education such as preschools and those school settings from a public school campus. The regulations seem to be changing and we should not promulgate a rule knowing that its going to change soon, especially in light of the retroactive look back period which will result in monetary fines.

Section 2 of that same, um, paragraph, a staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff should be able to state how many children are in their care at all times. This is particularly a problem for programs who fall under this license code, but serve after schoolers, especially those that have zones for children to attend and freely choose throughout the day or afternoon. This part of the rule we do not recall being reviewed with the industry and especially this conclusion of the rule. This was . . . this regulation does not and will not work with providers who are caring for after schoolers. A quality and proven method for successfully administering an after school program is what we call zone management. Children are free; which are typically six, seven . . . all the way up to eleven and twelve and sometimes thirteen years of age, to select and move between rooms or activities
frequently, making their own independent decision if they want to watch a movie or play basketball or go to the arcade room or do an arts and crafts activity and they are frequently making those selections throughout the day. Therefore not assigned to a particular staff member, but rather a group of staff members who are managing such zones. This regulation should be changed or omitted for after schoolers particularly.

In closing, I feel as though I've pointed out where the industry called substantial changes that need to be made before the rule will work for the industry in the current climate of change. I respectfully ask for the department to reconsider the changes which I've mentioned on behalf of the industry and my business. Thank you."

**Adjournment**

The hearing was adjourned at 9:29 a.m.

Respectfully Submitted by Alyson R. McCord, Hearing Officer
EXHIBIT #1

WRITTEN COMMENTS FROM WYATT GRAVES (Submitted via email)

WRITTEN RESPONSE FROM DCFS SECRETARY SUZY SONNIER
(Dated December 9, 2013)
My name is Wyatt Graves and I am the immediate past president of the child care association of LA and the owner/director of 2 licensed child care centers between St Tammany, Livingston, and East Baton Rouge parishes. I am also a participant in one of the 13 state-wide pilots offered by DHE. I have been closely involved with the current initiative to streamline licensing and regulations relative to Senate Bill 222 of the 2013 session. It is from that involvement that I have formed the opinion and professional recommendation that this rule is fundamentally flawed. I say this, on record, also having been part of the work group which wrote drafted the original versions of this rule.

While we support the act of fines, especially as an alternative to license revocation, we cannot support this rule in its entirety. I want to call attention to the department’s current ability to create a license with a provisional status for those who need licenses to be monitored more heavily and to serve as an alternative to license revocation.

The rule being proposed and heard today was drafted in 2012 which was prior to the 2013 legislation regarding the streamlining of licensing types and regulations to enhance the overall quality of care and education offered to Louisiana’s children. During the drafting of this rule, there was no such committee formed to rewrite the entire set of regulations which this rule is based. There was no intent that we’d have new types of licensing and a new quality rating system. This rule was drafted based on old methods of regulations and old content for such regulations. As of now, the entire mindset of regulating child care has changed, evolved, and morphed into something completely new. It is because of the significant changes in objective for regulating child care and building support for childcare systems to improve quality that I stand with my colleagues and fellow members of the child care association of LA, all 500+ members and oppose this rule in its current form.

Specific reasons are as follows:

Specific problems with this rule are found in the actual violations which will result in a fine. The one in particular is supervision. This particular regulation, due to its unrealistic nature, has caused the industry undue problems. It’s because of this historical track record, that current efforts are being taken to revise the very definition of the violation. How can this state move forward with a rule to fine providers based on a regulation that everyone in the state department knows is going to change? Furthermore, how can we knowingly implement rules and spend time educating providers and licensing specialists on the new definition to try and assess which may lead to fines — only to change the definition which will likely lead to a new meaning whereby previously written deficiencies and fines would not have been written under the new meaning?

a. §7302.6 and/or §7311.A.5 and/or §7311.6 - criminal background check;

b. §7302.6 and/or §7311.A.6 - state central registry disclosure;
c. § 7303.3.F.1 and/or § 7303.3.F.5 - critical incidents;

d. § 7315.A - D - ratio,

e. § 7317 - supervision; and/or supervision is one of the critical violations

f. § 7331.N - motor vehicle.

In determining whether multiple violations of one
category has occurred, both for purposes of
this section and for purposes of establishing a history of noncompliance,

all such violations cited during any 24 month
period shall be counted, even if one or more of the violations
occurred prior to the adoption of the current set of standards.

If one or more of the violations occurred prior to adoption of
the current set of standards, a violation is deemed to have
been repeated if the regulation previously violated is
substantially similar to the present rule.

4.a. For the first violation of one of the aforementioned
categories, if the department does not revoke or not renew
the license, the department may issue a formal warning letter
noting the department’s intent to take administrative action if
further violations of the same category occur.

b. The warning letter shall include a directed
Corrective Action Plan (CAP) which shall outline the
necessary action and timeframe for such action that a
provider shall take in order to maintain compliance with the
licensing regulations. The provider shall acknowledge
receipt of the warning letter by submitting a written response

Comment [TWCIL]: In the event a
fine bill is put into practice, the industry
and advocates for children and families
agree that a period of compliance
should begin with the inception of the
rule becoming final—not retroactively.
Implemented! The fine bill, from the
introduction of the bill in 2001, was
intended to promote compliance with
providers. Implementing retroactive
fees would add to administrative burden
of providers who otherwise would have
changed their practices if the plans of
nonprofit programs (which this rule
established) were in place. Give
providers a chance to have corrective
plans of action in place before
automatically attacking them with a
multiple-violation report yielding fines.
to the CAP within 14 calendar days of receipt of the letter.
Failure by the provider to submit requested information
and/or failure to implement the CAP as evidenced by a
repeated violation of the same category of the regulations
may result in either the assessment of a civil fine,
revocation/non-renewal of license, or both.
5.a. For the second violation of one of the same
aforementioned categories within a 24 month period,
provider will be assessed a civil fine of up to $250 per day
for violation of each of the aforementioned categories (if
same category cited twice) and fined for each day the
provider was determined to be out of compliance with one of
the aforementioned categories according to the following
schedule of fines:
b. The base fine level for all violations shall be
$200 per day. From the base fine level, factor in any
applicable upward or downward adjustments, even if the
adjustment causes the total to exceed $250. If the total fine
after all upward and downward adjustments exceeds $250,
reduce the fine for the violation to $250 as prescribed by
law.
1. If the violation resulted in death or serious
physical or emotional harm to a child, or placed a child at
risk of death or serious physical or emotional harm, increase
the fine by $50.
ii. If a critical violation for child/staff ratio is
cited and provider was found to have three or more children
above the required ratio, increase the fine by $50.

iii. If a critical violation for child/staff ratio is
cited for failure to have a minimum of two staff present,
increase the fine by $50.

iv. If the provider had a previous license revoked
for the same critical violation cited, increase the fine by $25.

v. If a critical violation for supervision was cited
due to a child being left alone outdoors, increase the fine by
$25.

vi. If the age of the child cited in the child/staff
ratio critical violation is four years of age or younger,
increase the fine by $25.

vii. If the age of the child cited in the supervision
critical violation is four years of age or younger, increase the
fine by $25.

viii. If the critical violation was cited and occurred
despite the objective good faith best efforts of licensee to
comply, decrease the fine by $25.

ix. If a critical violation was cited for the
provider's incomplete documentation of the motor vehicle
check, decrease the fine by $25.

x. If the cited critical violation was for annual
state central registry disclosure forms, decrease the fine by
x. If the provider self-reported the incident which
caused the critical violation to be cited, decrease the fine by
$25.

6. For the third violation of one of the same
aforementioned categories within a 24 month period, the
provider’s license may be revoked.

f.1. The director shall report all critical incidents as
specified below. For the following critical incidents,
immediate notification shall be made to emergency
personnel and/or law enforcement, as appropriate. In
addition, the child’s parent shall be contacted. Once contact
or attempted contact has been made to child’s parent, the
director shall verbally notify Licensing Section Management
staff immediately. The verbal report shall be followed by a
written report within 24 hours:

a. death of a child while in the care of the provider;
b. illness or injury requiring hospitalization or
professional medical attention of a child while in the care of
the provider;
c. any child leaving the facility and/or play yard
unsupervised or with an unauthorized person;
d. any child left unsupervised on the play yard;
e. use of corporal punishment;
f. suspected abuse and/or neglect by facility staff;

Comment [TWG2]: In an
environment of shared living regulations
and observations, how
are we moving forward with the
regulations when children are the
child care/toddler type of provider required
to comply with the rule? What is done
in public school when an injury occurs?
Are principals/teachers to call LCC?
Follow-up if this is no, and are
parents are happy about public
in this
system, then this rule needs to be
clarified. From what I understand, the
provider and administrator is seeking
parity.

Comment [TWG3]: This section is
very unclear. There are some centers
with RNs on staff. If the RN issues the
“treatable illness” to the child, does this
qualify? What if the parent voluntarily
brings the child to the doctor for an
evaluation but not treatment if
necessary, does this qualify? With no
interpreting guide, this regulation is left
very ambiguous.
g. any child given the wrong medication or an overdose of the correct medication;

h. leaving any child in a vehicle unsupervised or unsupervised on a field trip;

i. fire on the child care premises if children are present;

j. any serious and unusual situation that affects the safety and/or well-being of a child or children in the care of the provider;

k. any emergency situation that requires sheltering in place;

l. implementation of facility lock-down procedures, and/or temporarily relocating children;

m. any loss of power over two hours while children are in care;

n. an accident involving transportation of children in which children were injured; and/or

o. a physical altercation between adults in the presence of children on the child care premises.

2. Director shall ensure that appropriate steps have been taken to ensure the health and safety of the children in sheltering in place and/or lock down situations prior to notifying parents and/or Licensing Section management staff.

3. Within 24 hours or the next business day, the
director shall verbally notify Licensing Section management
staff of the following reportable incidents. The verbal report
shall be followed by a written report within 24 hours:
a. fire on the child care premises if children not
present;

General Requirements
A. - M. ...
N. The physical presence of a sex offender in, on, or
within 1,000 feet of a child day care facility is prohibited.

Providers and child care staff shall not permit an individual
convicted of a sex offense, as defined in R.S. 15:541,
physical access to a child day care facility, as defined in R.S.
46:1403.
O. The owner or director of a child day care facility shall
be required to call and notify law enforcement agencies and
the Licensing Section management staff if a sex offender is
on the premises of the child day care facility or within 1,000
feet of the child day care facility. The licensing office shall
be contacted immediately. The verbal report shall be
followed by a written report.

E. The DCFS form noting required child/staff ratios
shall be posted in each room included in the facility's
licensed capacity.

§7317. Supervision
A. Children shall be supervised at all times in the facility,
on the playground, on field trips, and on non-vehicular
excursions, including all water activities and water play
activities.
1. Children shall not be left alone in any room,
(excluding the restroom as noted in §7317.B) outdoors, or in
vehicles, even momentarily, without a staff present.
2. A staff person shall be assigned to supervise

Comment (TWGD): Again, emphasize
that child safety is not in line with other
providers of child care and daily
talents, such as preschools and day

Comment (TWGD): Again, emphasis
that child safety is not in line with other
providers of child care and daily

Comment (TWGD): Again, emphasize
that child safety is not in line with other
providers of child care and daily
specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times;

B. Children who are developmentally able may be permitted to go to the restroom on the child care premises independently, provided that:

1. staff member's proximity to children assures immediate intervention to safeguard a child from harm while in the restroom;

2. individuals who are not staff members may not enter the facility restroom area while in use by any child other than their own child;

3. a child five years of age and younger shall be supervised by staff members who are able to hear the child while in the restroom; and

4. a child six years of age and older may be permitted to go and return from the restroom without staff; however, staff must know the whereabouts of the child at all times.

C. When children are outside on the play yard, the staff member shall be able to summon another adult staff without leaving the group unsupervised.

D. Staff shall actively supervise children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.
E. Children ages two years and above may be grouped together at rest time with one staff in each room supervising the resting children. If two rooms share a common doorway, one staff may supervise the resting children. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff continually circulating among the resting children.

F. Areas used by the children shall be lighted in such a way as to allow visual supervision at all times.

G. While on duty with a group of children, staff shall devote their entire time to supervising the children, meeting the needs of the children, and participating with them in their activities. Staff duties that include cooking, housekeeping, and/or administrative functions shall not interfere with the supervision of children.

In closing, I feel as though I have pointed out what the industry calls substantial changes needed before this rule be made final. I respectfully ask the department to reconsider the changes which I have mentioned on behalf of the industry.
December 9, 2013

Wyatt Graves
P.O. Box 1449
Walker, LA 70785

Re: Public Hearing Comments (Licensing Class “A” Regulations for Child Care Centers and Licensing Class “B” Regulations for Child Care Centers – Notices of Intent)

Dear Mr. Graves:

This letter is in response to your comments made during a public hearing held by the Department of Children and Family Services (DCFS) on November 26, 2013, regarding the department’s proposed Licensing rules published in the October 20, 2013 Louisiana Register. R.S. 46:1430 granted DCFS the authority to enact sanctions through the use of civil fines in lieu of license revocation with regard to specific violations if the condition or occurrence does not pose an imminent threat to the health, safety, or welfare of a child.

DCFS coordinated with various stakeholders, including the Child Care Association of Louisiana (CCAL) in the development of the proposed rules. The department deems this rule necessary to protect the health, safety, and well-being of the children who receive care in out-of-home licensed child care facilities. We appreciate your comments regarding this rule and thank you for your participation in this process.

Sincerely,

Suzy Sonnier
Secretary

C: Brent Villemarette
   Lisa Andry
   Sammy Guillory
   Angie Badeaux
EXHIBIT #2

WRITTEN COMMENTS FROM CHARLES DEGRAW AND LOUIS TRACHTMAN (Received by Child Support Enforcement)

WRITTEN RESPONSE FROM DCFS SECRETARY SUZY SONNIER  
(Dated December 9, 2013)
Ms. Lisa Andry  
Deputy Assistant Secretary  
Department of Children and Family Services  
P.O. Box 94065  
Baton Rouge, Louisiana 70804-9065  

Dear Ms. Landry:  

We in the Department of Health and Hospitals, Office of Public Health, Tuberculosis Control Section have reviewed your Departments Notice of Intent published in the October 2013 issue of the Louisiana Register. Specifically regarding Licensing Class “B” Regulations for Child Care Centers (LAC 67:III.7365). Under 7. Health Requirements b. The reference to tuberculosis and testing should be omitted, as should the reference to Chapter II of the State Sanitary Code.  

We feel that the requirement to have no evidence of active tuberculosis is covered well in 7.a. in that staff “must be free from infectious and contagious diseases.” In 2009, the requirements for tuberculin testing in the State Sanitary Code’s Chapter II were changed. That current requirement is in “Chapter II - Chapter 5. §501. Employee Health for Employees, Volunteers and Patients at Certain Medical and Residential Facilities.” There is no requirement in the State Sanitary for “routine” testing of staff in Child Care Centers.  

If you have any questions about this recommendation, please let us know. We can be reached via e-mail or by telephone as follows:  
Mr. Charles DeGraw Charles.DeGraw@la.gov (504) 568-5015 – Program Director  
Dr. Louis Trachtman Louis.Trachtman@la.gov (504) 568-5015 – Program Medical Director  

Thank you for your consideration of this matter. 

Sincerely,  

Charles DeGraw  

Louis Trachtman, MD, MPH
December 9, 2013

Charles DeGraw, Program Director  
Louis Trachtman, MD, MPH, Program Medical Director  
Department of Health and Hospitals, Office of Public Health  
1450 Poydras Street  
Suite 2029  
New Orleans, LA 70112

Re: Public Hearing Comments (Licensing Class "B" Regulations for Child Care Centers – Notice of Intent)

Dear Mr. DeGraw and Dr. Trachtman:

This letter is in response to your comments submitted to the Department of Children and Family Services (DCFS) regarding the department’s proposed Licensing rule published in the October 20, 2013 Louisiana Register. You expressed concerns related to the Louisiana Administrative Code (LAC 67:III.7365) references to tuberculosis and testing.

We appreciate your comments regarding the Class B licensing regulations related to the standard which requires tuberculosis testing for all child care staff. However, the proposed rule does not address changes to the health requirements for staff and will be addressed when the entire rule is revised. We appreciate the time and effort that went into your response regarding this rule and thank you for your participation in this process.

Sincerely,

[Signature]

Suzy Sonnier  
Secretary

C. Brent Villemarette  
Lisa Andry  
Sammy Guillory  
Angie Badeaux