

**NOTICE OF INTENT**

**Department of Children and Family Services**

**Division of Programs  
Licensing Section**

**Licensing Class "B" Regulations for Child Care Centers**

**(LAC 67: III. 7355, 7357, 7359, 7361, 7363,  
7365, 7371, 7372 and 7385)**

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A) proposes to amend LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter B, Sections 7355, 7357, 7359, 7361, 7363, 7365, 7371, 7372 and 7385.

In accordance with R.S. 46:1430, this rule allows 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, including violations of 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 \$2000. 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.

## Title 67

### SOCIAL SERVICES

#### Part III. Economic Stability and Self Sufficiency

##### Subpart 21. Child Care Licensing

##### Chapter 73 Day Care Centers

##### Subchapter B. Licensing Class "B" Regulations for Child Care Centers

##### §7355. Authority

A. - E. ...

~~F. Conditions for Owners, Operators, Employees and Volunteers. Any owner, operator, current or prospective employee, or volunteer of a child care facility requesting licensure by the department and/or a child care facility licensed by the Department of Social Services is prohibited from working in a child care facility if the individual discloses, or as the result of information known or received by the Department of Social Services, that individual's name is recorded on the SCR as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children.~~

~~1. An individual owning, operating, employed by or volunteering in a child care facility prior to January 1, 2010, licensed by the department shall be required to complete a state central registry disclosure form on or before February 1, 2010. This information shall be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified (valid) determination of child abuse or neglect.~~

~~a. The owner, operator, current employee, and current employee/volunteer of the licensed child care facility shall complete, sign and date the state central registry disclosure form. The current employee/volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her state central registry disclosure form.~~

~~b. Any current employee/volunteer hired before January 1, 2010, who discloses that their name is recorded on the state central registry with a justified (valid) finding of abuse or neglect, or through reasonable suspicion, or as the result of information known or received by the Department of Social Services will have 10 calendar days to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately. As a condition of continued employment, the employee/volunteer shall be directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the SCR. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition of the Risk Evaluation Panel that they do not pose a risk to children. When these conditions are met, the employee/volunteer may be counted in child staff ratio. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual chooses not to appeal the finding, the employee/volunteer shall be terminated immediately. If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding within the required timeframe, the employee/volunteer shall continue to have direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling by the Division of Administrative Law that they do not pose a risk to children. Supervision may end effective with such a ruling from the Division of Administrative Law. If the Division of Administrative~~

~~Law upholds the Risk Evaluation Panel finding that they do pose a risk to children, they shall be terminated immediately.~~

~~2. After January 1, 2010, any prospective owner, operator, or prospective employee/volunteer of the child care facility requesting/licensure by the department and/or the child care licensed by the department shall be required to complete a state central registry disclosure form. This information shall be reported at the time of application, annually, at any time upon the request of the department, and within three working days of any such individual receiving notice of a justified (valid) determination of child abuse or neglect.~~

~~a. The prospective employee/volunteer of the licensed child care facility shall complete, sign and date the state central registry disclosure form. The prospective employee/volunteer shall submit the disclosure form to the owner or operator of the facility. The owner or operator shall also be required to provide documentation of his or her state central registry disclosure form.~~

~~b. If a prospective operator, employee/volunteer discloses that his or her name is currently recorded as a perpetrator on the state central registry, the child care facility representative/prospective employer shall inform the applicant they will not be considered for employment or volunteer duties at the time due to the state central registry disclosure and the child care facility representative/prospective employer will provide the prospective employee/volunteer with the request for a risk panel evaluation form.~~

~~3. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the Division of Administrative Law ruling shall be maintained in accordance with current department licensing requirements and be available for review by Child Care Licensing and Regulatory personnel during the facility's hours of operation. They shall be kept on file a minimum of one year from termination of the employee or volunteer from the center.~~

~~4. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee or prospective employee or volunteer has falsified a SCR disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to a Child Care Licensing manager at the Department of Social Services, Office of Family Support, Child Care Licensing and Regulatory Section as soon as possible, but no later than the close of business on the next working day.~~

~~5. Any state central registry disclosure form, Risk Evaluation Panel finding and Division of Administrative Law ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.~~

~~6. Violations of any of the provisions of this section shall result in licensing enforcement actions up to and including revocation of the license to operate.~~

F. The following is a listing of individuals by organizational type who are considered owners for licensing purposes:

1. Individual ownership - individual and spouse;
2. Partnership - all limited or general partners and managers, including but not limited to, all persons registered as limited or general partners with the Secretary of State's Corporations Division;
3. Head Start - individual responsible for supervising facility directors;
4. Church owned, governmental entity, or university owned - any clergy and/or board member that is present in the child care facility during the hours of operation or when children are present. Clergy and/or board members not present in

the child care facility shall provide an annual statement attesting to such;

5. Corporation (includes limited liability companies) - any person who has 25 percent or greater share in the ownership or management of the business or who has less than a 25 percent share in the ownership or management of the business and meets one or more of the criteria listed below. If a person has less than a 25 percent share in the ownership or management of the business and does not meet one or more of the criteria listed below, a signed, notarized attestation form shall be submitted in lieu of providing a criminal background clearance. This attestation form is a signed statement which shall be updated annually from each owner acknowledging that he/she has less than a 25 percent share in the ownership or management of the business and that he/she does not meet one or more of the criteria below:

- a. has unsupervised access to the children in care at the child care facility;
- b. is present in the child care facility during hours of operation;
- c. makes decisions regarding the day-to-day operations of the child care facility;
- d. hires and/or fires child care staff including the director/director designee; and/or
- e. oversees child care staff and/or conducts personnel evaluations of the child care staff.

G. All owners of a child day care facility shall provide documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2., R.S. 15:587.1, and R.S. 1491.3. A copy of the criminal background check shall be submitted for each owner of a child care facility with an initial application, a change of

ownership application, a change of location application, and/or an application for renewal of a child day care license. No person with a criminal conviction or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, shall directly or indirectly own, operate, and/or participate in the governance of a child care facility. In addition, neither an owner, nor a director, nor a director designee shall have a conviction of a felony conviction of, plea of guilty, or nolo contendere to any of the following crimes of fraud: 18 U.S.C. 287, 18 U.S.C. 134, R.S. 14:67.11, R.S. 14:68.2, R.S. 14:70, R.S. 14:70.1, R.S. 14:70.4, R.S. 14:70.5, R.S. 14:70.7, R.S. 14:70.8, R.S. 14:71, R.S. 14:71.1, R.S. 14:71.3, R.S. 14:72, R.S. 14:72.1, R.S. 14:72.1.1, R.S. 14:72.4, R.S. 14:72.5, R.S. 14:73.5, and R.S. 14:133.

1. An owner may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police to Licensing. If an owner provides a certified copy of their criminal background check obtained from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual currently owns/operates. However, prior to the one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue to be eligible to own or operate the child care facility. If the clearance is not obtained prior to the one year expiration of the certified criminal background check, the owner is no longer eligible to own or operate the child care facility.

2. New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity where such change does not constitute a change of ownership for licensing purposes shall provide documentation of a satisfactory criminal record check by Louisiana State Police obtained in the same manner as those required by R.S. 46:51.2 and R.S. 15:587.1. No person with a criminal conviction or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, shall directly or indirectly own, operate or participate in the governance of a child care facility.

3. Every owner shall submit the criminal background check showing that he or she has not been convicted of or pled guilty or nolo contendere to any offense enumerated in R.S. 15:587.1, together with the initial application or, in the case of an existing facility, with the application for renewal of the license. If the criminal background check shows that any owner has been convicted of or pled guilty or nolo contendere to any enumerated offense under R.S. 15:587.1, the owner or director shall submit the information to the Licensing Section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.

H. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the owner being on the premises of the child care facility, shall be updated annually at the time of licensure renewal, at any time upon the request of DCFS, and within 24 hours or no longer than the next business day, whichever is shorter, of any owner receiving notice of a justified (valid) finding of child abuse and/or neglect against them. If information is known to or received by DCFS, that the individual's name is recorded on the



state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child, the individual shall have a determination by the Risk Evaluation Panel or a ruling by the Division of Administrative Law (DAL) that the individual does not pose a risk to children in order to continue to own or operate a licensed child care facility.

1. Within 24 hours or no later than the next business day, whichever is shorter, of current owners receiving notice of a justified (valid) finding of child abuse and/or neglect against them, an updated state central registry disclosure form (SCR 1) shall be completed by the owner and submitted to Licensing Section management staff as required by R.S. 46:1414.1. The owner shall request a risk evaluation assessment in accordance with LAC 67:I.305 within 10 calendar days from completion of the state central registry disclosure form or the license shall be revoked. Immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner, at any and all times when he/she is in the presence of a child or children, shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect. Under no circumstances may an owner with a justified finding be left alone and unsupervised with a child or children pending the disposition of the Risk Evaluation Panel or the DAL determination that the owner does not pose a risk to any child and/or children in care. An owner supervised by an employee who does not have a satisfactory disclosure form on file as provided in this sub-section shall be deemed to be alone and unsupervised.

a. Any owner with a justified (valid) finding of abuse and/or neglect on the state central registry must submit, together with the SCR-1 required above either:

i. a written, signed, and dated statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child or children and that they shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect; or

ii. a written, signed, and dated statement to Licensing Section management staff that he/she will not be on the premises of the facility at any time when a child is present nor during the facility's hours of operation.

b. If the Risk Evaluation Panel determines that the owner poses a risk to children and the individual does not appeal the determination within the required timeframe, the owner shall no longer be eligible to own or operate the child care facility.

c. If the Risk Evaluation Panel determines that the owner poses a risk to children and the individual appeals the determination to the DAL within the required timeframe, the owner shall continue to be under direct supervision when in the presence of a child or children on the child care premises. Supervision must continue until receipt of a ruling from the DAL that the owner does not pose a risk to children.

d. If the DAL upholds the Risk Evaluation Panel's determination that the owner poses a risk to children,

the owner shall no longer be eligible to own or operate the child care facility.

2. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form at the time of application to the DCFS Licensing Section. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, the application shall be denied unless the owner requests a risk evaluation assessment on the state central registry risk evaluation request form (SCR 2) within the required timeframe. DCFS will resume the licensure process when the owner provides the written determination by the Risk Evaluation Panel or the DAL that they do not pose a risk to children.

a. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children and the individual does not appeal the determination within the required timeframe, the prospective owner shall withdraw the application within 14 calendar days of the mailing of the DAL decision or the application shall be denied.

b. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children and the individual appeals the determination to the DAL within the required timeframe, the department shall not proceed with the licensure process until a ruling is made by the DAL that the owner does not pose a risk to children. In addition, if the owner/operator is operating legally with six or less children as defined in R.S 46:1403, the owner shall submit:

i. a written, signed, and dated statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and

unsupervised with a child or children and that they shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect; or

ii. a written, signed, and dated statement to Licensing Section management staff that he/she will not be on the premises of the facility at any time when a child is present nor during the facility's hours of operation; or

iii. If the owner/operator is not providing care for any children, a written, signed dated statement to Licensing Section management staff shall note that the owner/operator is not caring for any children and will not care for children prior to receiving a license.

c. If the DAL upholds the Risk Evaluation Panel determination that the prospective owner poses a risk to children, the prospective owner shall withdraw the application within 14 calendar days of the mailing of the DAL decision or the application shall be denied.

3. State Central Registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the DAL ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation.

4. Any information received or knowledge acquired that a current or prospective owner and/or operator has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) finding of abuse or neglect shall be reported

in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

5. Any state central registry disclosure form, Risk Evaluation Panel finding, and DAL ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and/or neglect.

I. Critical Violations/Fines

1. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the Department (DCFS) may at its discretion elect to impose sanctions, revoke a license, or both:

a. §7355.G and/or §7365.C.4, and/or §7365.C.5 - criminal background check;

b. §7355.H and/or §7365.C.6 - state central registry disclosure;

c. §7361.M.1 and/or 7361.M.5 - critical incidents;

d. §7363.C.1.i and/or 7363.D.2 - motor vehicle;

e. §7371.A - ratio, and/or;

f. §7372 - supervision.

2. The option of imposing other sanctions does not impair the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a child or children. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a child or children will the department consider sanctions in lieu of revocation or non-renewal; however, the absence of such an imminent threat does

not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

3. 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 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 twenty four 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.

i. 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 \$25.

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.

7. The aggregate fines assessed for violations determined in any consecutive 12 month period shall not exceed \$2,000. If a critical violation in a different category is noted by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive twelve month period as defined by the law and 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 within the 12 month period. The warning letter shall include a directed 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 revocation/non-renewal of license.

J. Departmental Reconsideration And Appeal Procedure For Fines

1. When a fine is imposed under these regulations, the Department shall notify the director or owner by letter that a fine has been assessed due to deficiencies cited at the facility and the right of departmental reconsideration. The notification may be sent by certified mail or hand delivered to the facility. If the director or owner is not present at the facility, delivery of the written reason(s) for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to: Department of Children and Family Services, Licensing Section, P.O. Box 260035 Baton Rouge, LA 70826. If the provider withdraws the request for reconsideration, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the director or owner by letter of the decision of DCFS after reconsideration and the

right to appeal. The notification may be sent by certified mail or hand delivered to the facility. If the director or owner is not present at the facility, delivery of the written decision may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action.

a. If DCFS finds that the Licensing Section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the DAL. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the DAL of receipt of an appeal request. Division of Administrative Law (DAL) shall conduct a hearing in accordance with the Administrative Procedure Act within 30 days of the receipt thereof, and shall render a decision not later than 60 days from the date of the hearing. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the provider has filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial

review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within seven calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within seven calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the department's reconsideration decision, the fine is due within 30 calendar days of receipt of the department's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260035 Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in §7355.J.2.c. If the provider withdraws the appeal, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by

the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:333 (February 2010), LR 36:849 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), amended LR 39:

**§7357. Definitions**

A. ...

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Change of Ownership - a transfer of ownership of a currently licensed facility that is in operation and caring for children, to another entity without a break in service to the children currently enrolled.

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Corporation - any entity incorporated in Louisiana or incorporated in another State, registered with the Secretary of State in Louisiana, and legally authorized to do business in Louisiana.

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Individual owner - a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university, or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through a judicial separation of property agreement or acquired via a judicial termination of the community of acquets and gains.

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Juridical entity - corporation, partnership, limited-liability company, church, university, or governmental entity.

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Natural person - a human being and, if that person is married and not judicially separated or divorced, the spouse of that person

Non-Vehicular Excursion - any activity that takes place outside of the licensed area (play yard and facility), that is within a safe, reasonable walking distance, and that does not require transportation in a motor vehicle. This does not include walking with children to and from schools.

~~Owner the individual or organization that owns the center, but who may employ a person to be a full time director responsible for the operation of the center or who may retain the responsibility as director.~~

Owner or Operator - The individual who exercises ownership or control over a child day care facility, whether such ownership/control is direct or indirect.

Ownership - The right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law.

a. Direct Ownership - when a natural person is the immediate owner of a child day care facility, i.e., exercising control personally rather than through a juridical entity.

b. Indirect Ownership - when the immediate owner is a juridical entity.

Partnership - includes any general or limited partnership licensed or authorized to do business in this state. The owners of a partnership are its limited or general partners and any managers thereof.

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Water activity - a water-related activity in which children are in, on, near and accessible to, or immersed in, a

body of water, including but not limited to a swimming pool, wading pool, water park, river, lake, beach, etc.

Water play activity - a water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip and slides, water tables, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:334 (February 2010), LR 36:850 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:471 (March 2013), LR 39:

**§7359. Procedures**

A. - A.3. ...

~~4. When a center changes ownership, a new application and fee shall be submitted. All approvals listed above shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of bill of sale or a lease agreement.~~

~~a. documentation of a satisfactory criminal record clearance for all owners and operators and all staff not employed by the previous owner; and~~

~~b. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff or documentation from the Risk~~

~~Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children.~~

4. Change Of Ownership (CHOW)

a. Any of the following constitutes a change of ownership:

i. change in the federal tax id number;  
ii. change in the state tax id number;  
iii. change in profit status;  
iv. any transfer of the child care business from an individual or juridical entity to any other individual or juridical entity;

v. termination of child care services by one owner and beginning of services by a different owner without a break in services to the children; and/or

vi. addition of an individual to the existing ownership on file with the Licensing Section.

b. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change.

i. if individual ownership, upon death of the spouse and prior to execution of the estate;

ii. if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner;

iii. if individual ownership, undergoing a separation or divorce until a judicial termination of the community aquets and gains, signed by both parties;

iv. changes in board members for churches, corporations, limited liability companies, universities, or governmental entities;

v. any removal of a person from the existing organizational structure under which the child day care facility is currently licensed.

c. A facility facing adverse action shall not be eligible for a CHOW. An application involving a center facing adverse action shall be treated as an initial application rather than a change of ownership.

d. When a facility changes ownership, the current license is not transferable. Prior to the ownership change and in order for a temporary license to be issued, the new owner shall submit a CHOW application packet containing the following:

i. a completed application and full licensure fee as listed in §7359.B.2 based on current licensed capacity or requested capacity, whichever is less;

ii. current (as noted in §7359.A.4.e) Office of State Fire Marshal approval;

iii. current (as noted in §7359.A.4.e) Office of Public Health approval;

iv. current (as noted in §7359.A.4.e) City Fire approval (if applicable);

v. a sketch or drawing of the premises including classrooms, buildings and enclosed play area;

vi. a list of staff to include staff's name and position;

vii. documentation of director qualifications as listed in §7369.A;

viii. signed and dated statement from current owner noting last day care will be provided at the facility;

ix. signed and dated statement from new owner noting first day care will be provided at the facility;



x. three dated and signed reference letters on the director attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;

xi. documentation of a fingerprint-based satisfactory criminal record clearance for all staff, including owners and operators. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section (the prior owner's documentation of satisfactory criminal background checks is not transferrable); and

xii. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff including owners and operators or a determination from the Risk Assessment Panel or Division of Administrative Law (DAL) noting that the individual does not pose a risk to children (the prior owner's documentation of state central registry disclosure forms is not transferrable).

e. The prior owner's current Office of State Fire Marshal, Office of Public Health, and City Fire approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section.

f. A licensing inspection shall be conducted within 60 calendar days to verify that the provider is in compliance with the minimum standards. At this time, licensing staff shall complete a measurement of the facility and enclosed, outdoor play yard. Upon review of the space, the capacity of the facility may be reduced or increased as verified by new measurement of the facility.

g. All staff/children's information shall be updated under the new ownership prior to or on the first day care is provided by the new owner.

h. If all information in §7359.A.4.d is not received prior to or on the last day care is provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide child care services until the licensure process is completed in accordance with §7359.A.1-2.

A.5. - E.3. ...

4. When a child care provider has been cited during an on-site inspection for violation of a licensing standard which the department deems non-critical, the department shall allow the provider an opportunity to immediately remedy the non-critical area of non-compliance if allowing such immediate correction does not endanger the health, safety, or well-being of any child in care. The remedy shall be included in the documentation noted by the department. The department shall exercise its discretion in determining which areas of the licensing standards are deemed critical under the particular circumstances which caused the deficiency to be cited.

a. Licensing staff shall cite the non-critical deficiencies at the time of the inspection and shall note in the inspection findings whether the deficiency was corrected during the licensing inspection. If all non-critical deficiencies are verified as corrected during the inspection and no critical areas of non-compliance are cited, no follow up inspection is required. If non-critical deficiencies are not verified as corrected during the inspection, or if deficiencies in critical areas are cited, a follow-up inspection may be conducted to determine that corrections have been made and maintained in a manner consistent with the licensing standards.

b. The statement of deficiencies shall be placed on the internet for public viewing unless posting the information violates state or federal law or public policy, and the posted deficiency statements shall note which areas of non-compliance were verified as corrected at the time of the licensing inspection.

c. Areas of non-critical non-compliance may include but are not limited to posted items, paperwork, children's records, documentation of training, furnishing/equipment, and emergency/evacuation procedures.

F. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2771 (December 2007), amended LR 36:335 (February 2010), LR 36:833 (April 2010), repromulgated LR 36:1273 (June 2010), amended LR 36:1279 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2521 (November 2010), repromulgated LR 37:513 (February 2011), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:

**§7361. General Requirements**

A. - L. ...

~~M. Conditions for Participation in a Child Related Business~~

~~1. Any owner/owners of a child day care facility shall provide documentation of a satisfactory criminal record check, as required by R.S. 46:51.2 and R.S. 15:587.1. A criminal background check shall be required of each owner of a facility submitting a new application, change of ownership application, change of location application, and/or application for renewal for a child day care license. No person with a criminal conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.~~

~~2. New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity which does not constitute a change of ownership shall provide documentation of a satisfactory criminal record check as required by R.S. 46:51.2 and R.S. 15:587.1. No member/owner with a criminal conviction of conviction of a felony, a plea of guilty or nolo contendere of a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall directly or indirectly own, operate or participate in the governance of a child care facility.~~

~~3. Every owner shall submit the criminal background check showing that he or she has not been convicted of any offense enumerated in R.S. 15:587.1 or a felony, or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, together with the initial application or, in~~

~~the case of an existing center, with the application for renewal of the license. If the criminal background check shows that any owner has been convicted of any enumerated offense under R.S. 15:587.1 or a felony, a plea of guilty or nolo contendere of a felony, or any offense involving a juvenile victim, the owner or director shall submit the information to the licensing section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.~~

M.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;
- 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;

b. structural damage to the facility; and/or

c. an accident involving transportation of children in which children were not injured.

4. The written report to DCFS Licensing Section for critical incidents and reportable incidents shall include the following information:

a. name of facility;

- b. address of facility;
- c. license number;
- d. contact number;
- e. date of incident;
- f. time of incident;
- g. name of child or children involved;
- h. name of staff involved and other staff

present;

- i. description of incident;

j. date and time of notification to parents (to include attempted contacts), law enforcement, and Child Welfare (CW), if applicable;

k. signature of person(s) notifying law enforcement, emergency personnel, CW, and parents;

l. corrective action taken and/or needed to prevent reoccurrence;

m. date and signature of staff completing report; and

n. signature of parent, with date and time of signature.

5. The director shall contact or attempt to contact a child's parent immediately upon the occurrence of any critical incident as noted in §7361.M.1 or reportable incident as noted in §7361.M.3.c. If the parent cannot be contacted by phone the director shall notify the child's parent verbally at the time the child is picked up from the facility.

~~4. 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.

~~5-~~ 0. The owner or director of a child day care facility shall be required to call and notify law enforcement agencies and the licensing 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended LR 36:335 (February 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:

**§7363. Transportation**

A. - C.1.h. ...

i. ~~the driver shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle and all children were picked up and dropped off at the correct locations;~~ a visual inspection of the vehicle is conducted to verify that no child was left on the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. The staff conducting the visual check shall record the time of the visual check inspection and sign his or her full name, indicating that



no child was left on the vehicle. For daily transportation services, the vehicle shall be inspected at the completion of each trip/route prior to the staff person exiting the vehicle.

C.1.j. - C.10. ...

~~D.~~ D.1. Field Trips. Whether transportation for field trips is provided by the center, parents, or an outside source, there shall be signed parental authorization for each child to leave the center and to be transported in the vehicle.

2. A visual inspection of the vehicle is required to ensure that no child was left on the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. The staff conducting the visual check shall record the time of the visual check inspection and sign his or her full name, indicating that no child was left on the vehicle. For field trips, whether facility provided or contracted, the vehicle shall be checked and a face-to-name count conducted prior to leaving facility for destination, when destination is reached, before departing destination for return to facility, and upon return to facility.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1207 (May 2012), LR 39:

**§7365. Center Staff**

A. - C.3. ...

~~4. Criminal Records Check. Documentation of a satisfactory criminal records check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be eligible to own, operate, and/or be present in any capacity in any licensed child care facility. For any owner or operator, a clear criminal background check in accordance with R.S. 46:51.2 shall be obtained prior to the issuance of a license or approval of a change of ownership. In addition, neither an owner, nor a director, nor a director designee shall have a conviction of, or pled guilty or nolo contendere to any crime in which an act of fraud or intent to defraud is an element of the offense.~~

~~a. An individual who applies for a position of supervisory or disciplinary authority over children in a child care facility may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed. However, prior to the one year date of issuance of the certified criminal background check, the provider shall request and obtain a satisfactory criminal check from Louisiana State Police in order for the individual to continue employment at the center. If the clearance is not obtained by the provider prior to the one year~~

~~date of issuance of the certified criminal background check, the staff person is no longer allowed on the child care premises until a clearance is received.~~

~~b. The following information shall be kept on file for independent contractors including therapeutic professionals and extracurricular personnel, e.g. computer instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care professionals, state certified teachers employed through a local school board, art instructors, and other outside contractors.~~

~~i. Documentation of a satisfactory criminal record check from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, R.S. 14:2, R.S. 15:541 or any offense involving a juvenile victim, shall be present in any capacity in any child care facility.~~

~~ii. Independent contractors, therapeutic professionals, and/or extracurricular personnel may provide a certified copy of their criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police to the provider prior to being present and working with a child or children at the facility. If an individual provides a certified copy of their criminal background check obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility. Prior to the one year date of issuance of the certified copy, the individual shall request and obtain a current certified copy of their~~

~~criminal background check obtained from the Bureau of Criminal Identification and Information Section of the Louisiana State Police in order to continue providing services to a child or children at the child care facility. If the clearance is not obtained by the provider prior to the one year date of issuance of the certified criminal background check, the individual shall no longer be allowed on the child care premises until a clearance is received. This criminal background check shall be accepted by the department for a period of one year from the date of issuance of the certified copy. A photocopy of the certified copy shall be kept on file at the facility.~~

~~e. No felon shall be employed in a Class "B" facility, unless approved in writing by a district judge of the parish and the local district attorney. This statement shall be kept on file at all times by the child care facility and shall be produced upon request to any law enforcement office.~~

4. Criminal Records Check. All paid and unpaid staff persons, substitutes, and foster grandparents shall have documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being hired by or present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in any licensed child care facility. CBC shall be dated no earlier than 30 days of the individual's hire date at the facility. If a staff person leaves the employment of the provider for more than 30 calendar days, a new fingerprint based CBC is required prior to the individual being rehired by or present on the child care premises. A criminal background check is satisfactory for purposes of this section if it shows no arrests for any enumerated offense or, if

an arrest is shown on the background check, the background check or certified documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction.

a. If an individual applicant has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police such certified copy shall be acceptable as meeting the CBC requirements for employees and/or staff. If an individual provides a certified copy of their criminal background check which he/she has previously obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed/providing child care services. However, prior to the one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue employment/providing child care services at the center. If the clearance is not obtained prior to the one year expiration of the certified criminal background check, the individual is no longer allowed on the child care premises until a clearance is received.

5. Criminal Records Check - Independent Contractors.  
All independent contractors including therapeutic professionals and extracurricular personnel, e.g. contracted transportation drivers, computer instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care

professionals, state-certified teachers employed through a local school board, Louisiana Department of Education (LDE) staff, local school district staff, art instructors, and other outside contractors shall have documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility or providing services for the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed child care facility. CBC shall be dated prior to the individual being present on the child care premises. A criminal background check is satisfactory for purposes of this section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction.

a. If an individual has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police such certified copy shall be acceptable as meeting the CBC requirements for independent contractors. If an individual provides a certified copy of their criminal background check which he/she has previously obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual is currently providing child care services. However, prior to the

one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue providing child care services at the center. If the clearance is not obtained prior to the one year expiration of the certified criminal background check, the individual is no longer allowed on the child care premises until a clearance is received.

b. For the first school year that a LDE staff person or local school district staff person provides services to a child at a child care facility, that LDE staff person or local school district staff person shall provide documentation of a fingerprint based satisfactory criminal record check as required by §7365.C.4 or shall provide the original, completed, signed, notarized, DCFS approved affidavit to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file, and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee.

6. State Central Registry Disclosure. Documentation of a state central registry disclosure form (SCR 1) completed by the staff (paid and/or non paid) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the child care facility, shall be updated annually, at any time upon the request of DCFS, and within 24 hours or no later than the next business day, whichever is sooner, of any staff receiving notice of a justified (valid) finding of child abuse and/or neglect. Any current or prospective employee, or volunteer of a child care facility licensed by DCFS is prohibited from working in a child care facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child, unless there is a finding by the Risk Evaluation panel or a ruling by the Division of Administrative Law (DAL) that the individual does not pose a risk to children.

a. The prospective paid and/or non paid staff (employee/volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.



i. If a prospective staff (employee/volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment or volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective employee/volunteer with the state central registry risk evaluation request form (SCR 2) so that a risk assessment evaluation may be requested.

ii. Individuals are eligible for employment/volunteer services if and when they provide written determination from the Risk Evaluation Panel or the DAL noting that they do not pose a risk to children

b. If a current staff receives notice of a justified (valid) finding of child abuse and/or neglect against them, he or she shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) finding as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within 24 hours or no later than the next business day, whichever is sooner, or upon being on the child care premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately.

i. If the staff person will no longer be employed at the center, the provider shall immediately submit a signed, dated statement noting the individual's name and termination date.

ii. Immediately upon receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment, the staff

person with the justified (valid) finding, when in the presence of children shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for such supervision must have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect, or a determination from either the Risk Evaluation Panel or the DAL that the supervising employee does not pose a risk to children. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with a child or children. The provider shall submit a written statement to Licensing Section management staff acknowledging that the staff person with the justified finding will not be left alone and unsupervised with a child or children pending the disposition by the Risk Evaluation Panel or the DAL that the staff person does not pose a risk to children. When the aforementioned conditions are met, the staff (employee/volunteer) may be counted in child/staff ratio. A person supervised by an employee who does not have a satisfactory disclosure form on file as provided in this subsection shall be deemed to be alone and unsupervised.

(a.) If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual does not appeal the finding to DAL within the required timeframe, the staff (employee/volunteer) shall be terminated immediately.

(b.) If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding to the DAL within the required timeframe, the staff (employee/volunteer) shall continue to be under direct supervision while in the presence of children by another paid staff of the facility who has not disclosed that they have a

justified (valid) finding on the state central registry until a ruling is made by the DAL that they do not pose a risk to children. Supervision shall not end until receipt of the ruling from the DAL that the employee does not pose a risk to children.

(c.) If the DAL upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

iii. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the DAL ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation.

iv. Any information received or knowledge acquired that a current or prospective volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) finding of abuse and/or neglect shall be reported in writing to a Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

v. Any state central registry disclosure form, Risk Evaluation Panel finding, and DAL ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and/or neglect.

~~5-~~ 7. Health Requirements

a. All center staff shall be required to obtain three months before or within 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is in good health and

is physically able to care for the children, and is free from infectious and contagious diseases.

b. At the time of employment, the individual shall have no evidence of active tuberculosis. Tuberculin test result dated within one year prior to offer of employment is acceptable. Staff shall be retested on time schedule as mandated by the Office of Public Health. For additional requirements, refer to Chapter II of State Sanitary Code.

c. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

d. Substitute workers, temporary employees, or volunteers shall meet the same medical requirements as regularly employed personnel. Refer to substitute and temporary employees as defined.

~~6.~~ 8. Job Descriptions. A personnel job description shall be kept on file detailing employee's responsibilities.

~~7.~~ 9. Personnel Records. Personnel records shall be kept on file for a minimum of one year after the employee leaves. Health records may be returned to the staff member upon request.

D. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1639 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2774 (December 2007), amended by the Department of Children and Family Services, Division of Programs, LR 37:815

(March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:982 (April 2012), LR 39:

**§7371. Required Child/Staff Ratios**

~~A.— Required Ratios for Ten or Less Children. Below are the required child/staff ratios for centers serving 10 or fewer children (including the operator's and/ or staff's own children).~~

<del>Children</del>	<del>Staff</del>
<del>10 (if no more than two children are under age two)</del>	<del>1</del>
<del>10 (if three or more children are under age two)</del>	<del>2</del>

~~B.— Required Ratios for Eleven or More Children~~

<del>Children</del>	<del>Staff</del>
<del>6 (Non walkers and toddlers under 12 months)</del>	<del>1</del>
<del>8 (Toddlers, 12 months to 23 months)</del>	<del>1</del>
<del>12 (Two Year Olds, 24 months to 36 months)</del>	<del>1</del>
<del>14 (Three Year Olds, 36 months to 48 months)</del>	<del>1</del>
<del>16 (Four Year Olds, 48 months to five years old)</del>	<del>1</del>
<del>20 (five to six year olds)</del>	<del>1</del>
<del>25 School Age (six year olds and up)</del>	<del>1</del>

~~1.— Mixed Ages. When the center serves children of mixed ages, excluding children under two years, an average of the staff ratio may be applied.~~

~~2.— Staff Involved in Ratio. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.~~

~~C.— Other Required Staff~~

~~1.— When the number of children in the center exceeds 10, there must be an individual immediately available in case of an emergency.~~

~~2.— If day and night care is offered, there must be separate staff.~~

~~3. At naptime, appropriate staffing shall be present within the center to satisfy required child/staff ratio.~~

A. Staff to Child Ratios

<b>Class B</b>	
<b><u>Ages of Children</u></b>	<b><u>Child/Staff Ratio</u></b>
<u>Children under 12 months</u>	<u>6:1</u>
<u>One year old</u>	<u>8:1</u>
<u>Two year old</u>	<u>12:1</u>
<u>Three year old</u>	<u>14:1</u>
<u>Four year old</u>	<u>16:1</u>
<u>Five year old</u>	<u>20:1</u>
<u>Six year old and up</u>	<u>25:1</u>

1. Mixed Ages. When the center serves children of mixed ages, excluding children under two years, an average of the staff ratio may be applied.

2. Staff Involved in Ratio. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

3. When the number of children in the center exceeds 10, there must be an individual immediately available in case of an emergency.

4. At naptime, appropriate staffing shall be present within the center to satisfy required child/staff ratio.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000), repromulgated by the Department of Social Services, Office of Family Support,

LR 33:2775 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:

**§7372. 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 §7372.B) outdoors, or in vehicles, even momentarily, without a staff present.

2. 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 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.

H. Individuals who do not serve a purpose related to the care of children or who hinder supervision of the children shall not be present in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1430 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:

**~~§7385. Supervision~~**



~~A. Children shall be supervised at all times. All children shall never be left alone in any room or outdoors at any time without a staff present.~~

~~B. While on duty with a group of children, child care staff members shall devote their entire time:~~

~~1. in supervision of the children; and~~

~~2. in participating with them in their activities.~~

~~C. Individuals who do not serve a purpose related to the care of children and/or hinder supervision of the children shall not be present in the center.~~

~~D. At naptime, children may be grouped together with one worker supervising the children sleeping while other workers rotate various duties and lunchtime. All children sleeping must be in the sight of the naptime worker. However, appropriate staffing must be present within the center to satisfy state required child/staff ratios.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2779 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:

#### **FAMILY IMPACT STATEMENT**

1. What effect will this rule have on the stability of the family? There will be no effect on the stability of the family.
2. What effect will this have on the authority and rights of persons regarding the education and supervision of their

children? This rule offers clarification to the current rule in areas which help to ensure that the individuals that own, operate, or govern child care facilities and those that are responsible for the education and supervision of children in child care facilities, have satisfactory criminal background clearances and are not listed on the State Central Registry.

3. What effect will this have on the functioning of the family? There will be no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? There will be no effect on family earnings and the family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed rule? No, this is strictly an agency function.

#### **POVERTY IMPACT STATEMENT**

The proposed rulemaking will have no impact on poverty as defined by R.S. 49:973.

#### **SMALL BUSINESS IMPACT STATEMENT**

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

All interested persons may submit written comments through November 26, 2013, to Lisa Andry, Deputy Assistant Secretary, Department of Children and Family Services, P. O. Box 94065, Baton Rouge, LA, 70804-9065.

A public hearing on the proposed rule will be held on November 26, 2013 at the Department of Children and Family Services, Iberville Building, 627 N. Fourth Street, Seminar Room

1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For Assistance, call (225) 342-4120 (Voice and TDD).

Suzy Sonnier  
Secretary