

EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u> <input type="checkbox"/> All Child Care Evaluator Manual Holders <input type="checkbox"/> All Residential Care Evaluator Manual Holders <input checked="" type="checkbox"/> All Evaluator Manual Holders	<u>Transmittal No.</u> 06RM-04
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Subject:

REFERENCE MATERIAL – ENFORCEMENT ACTIONS

Reason For Change:

To amend background check civil penalty instructions as required by AB 1240, Statutes of 2004

To add background check civil penalty instructions regarding:

- children who turn 18 while living or working in a licensed facility
- individuals away on military duty returning to reside in a licensed facility

Revised Pages:

1 and 13

New Page:

13.1

Reformatted Pages:

14 and 15

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1-0050 UNLICENSED FACILITIES

1-0050

- **Residential Care Facility for the Elderly**

For a Residential Care Facility for the Elderly, if a completed application is submitted or operation ceases within 15 calendar days of the Notice, no civil penalty is assessed. If a completed application **is not** submitted within 15 days and operation continues, a civil penalty of \$100 per resident per day, for days 1 through 15 is assessed retroactively. On day 16 the civil penalty increases to \$200 per resident per day and continues until a completed application is submitted or operation ceases.

- **All Other Facility Categories**

For **all** other facility categories, if a completed application is not submitted or operation does not cease within 15 calendar days of the Notice, on day 16 a civil penalty of \$200 per day is assessed until a completed application is submitted or operation ceases.

Use the table in Section 1-0075 as a quick reference for timeframes and amounts for specific facility types.

Completed Application Requirements

Residential Care Facilities for the Elderly; see Section 87218.

Residential Care Facilities for the Chronically Ill; see Section 87818.

Community Care Facilities; see Section 80018.

Family Child Care Homes; see Section 102393.

Child Care Centers see; Section 101169.

1-0055 **BACKGROUND CHECK VIOLATIONS**

1-0055

Civil penalties for **background check** violations apply to **all** facility categories. This civil penalty results from **allowing an individual, who is subject to a background check, to work or reside in the facility without a criminal record clearance or exemption.**

Prior to each licensing visit, review the facility file for citations for allowing an individual without a criminal record clearance or exemption to work or reside in the facility. Query the LIS or equivalent county system for a list of all persons currently associated to the facility.

1-0055 **BACKGROUND CHECK VIOLATIONS** (Continued)

1-0055

- If an individual (who is subject to a background check) is working or residing in the facility and he/she does not have a clearance or a criminal record exemption:
 1. Determine how long the individual has been working or residing at the facility.
 2. Cite the deficiency.
 3. Assess immediate CP for the number of days that you can substantiate the individual worked or resided in the facility, up to a maximum of 5 days.
 4. If the licensee has been cited for this type of violation within the last 12 months, assess the immediate CP for the number of days that you can substantiate the individual worked or resided in the facility, up to a maximum of 30 days.
- If an individual, working or residing in the facility, has a criminal record exemption but the individual is associated to another facility, give the licensee a transfer request form (LIC 9188) and have him/her complete the form during the visit. See EM Section 7-1770 for transfer instructions. Civil penalties must be assessed.

Non-client children who turn 18 while working or residing in the facility have thirty (30) days from the date of his/her 18th birthday to submit fingerprints and obtain a clearance.

If the 18 year old is working or residing in the facility and the 30-day timeframe has lapsed and he/she has not submitted his/her fingerprints or is not successful in obtaining a clearance or criminal record exemption, the licensee must be cited and immediate civil, as described above, penalties must be assessed.

- If the 18 year old is an employee or a non-dependant family member, the licensee must immediately remove him/her from the facility. The 18 year old cannot return to the facility until he/she receives a clearance or a criminal record exemption.
- If the 18 year old is a dependant family member he/she cannot be removed. Initiate administrative action to revoke the license. Consult with legal.

Individuals away on military duty who are returning to reside in a licensed facility have thirty (30) days from the date he/she returns to the facility to submit fingerprints and obtain a clearance.

If the 30-day timeframe has lapsed and the individual has not submitted his/her fingerprints or is not successful in obtaining a clearance or criminal record exemption, the licensee must be cited and immediate civil penalties, as described above, must be assessed.

- If the individual is a non-dependant resident, the licensee must immediately remove him/her from the facility. The individual cannot return to the facility until he/she receives a clearance or a criminal record exemption.

If the individual is the spouse or dependant family member of the licensee he/she cannot be removed. Initiate administrative action to revoke the license. Consult with legal.

**1-0057 PARENTS RIGHTS ADDENDUM VIOLATIONS FAMILY
CHILD CARE HOMES ONLY****1-0057**

The following procedures will apply if the person has been excluded from a family child care home, either by the Caregiver Background Check Bureau, or the Regional Office; or the County Licensing Office.

- By the Caregiver Background Check Bureau: A “Family Child Care Home, Addendum to Notification of Parent’s Rights (LIC 995B) (Regarding Exclusion)” will be sent from the Caregiver Background Check Bureau, to the licensee, with a copy to the Regional Office. The Regional Office is to file its copy in the public portion of the facility file behind the “Personnel” divider. If the person is later permitted to return to the facility the Caregiver Background Check Bureau will send the licensee a “Family Child Care Home, Addendum to Notification of Parent’s Rights (LIC 995C) (Regarding Reinstatement) with a copy to the Regional Office. Again, the Regional Office must file it in the public portion of the facility file, behind the “Personnel” divider.
- By the Regional Office: A “Family Child Care Home, Addendum to Notification of Parent’s Rights (LIC 995B) (Regarding Exclusion) “will be sent from the Regional Office or the County Licensing Office, to the licensee, and a copy placed in the public portion of the facility file behind the “Personnel” divider. If the person is later permitted to return to the facility, the Regional Office will or County Licensing Office will send to the licensee a “Family Child Care Home, Addendum of Notification of Parent’s Rights (LIC 995C) (Regarding Reinstatement). Again, the Regional Office must file it in the public portion of the facility file, behind the “Personnel” divider.

An immediate civil penalty of \$100 per violation must be assessed to a Family Child Care Home licensee when someone has been excluded from the facility and the licensee fails to comply with any of the following:

- Provide parents/authorized representatives with a copy of the addendum;
- Obtain parents/authorized representatives signature or;
- Provide the Department with a copy of the signed addendum upon request.

NOTE: Civil penalties are based upon parents not receiving a copy of the addendum i.e. if the parent/authorized representatives of four children did not receive notification from the licensee and three of the four children had the same parents/authorized representative, the licensee would only be assessed a civil penalty of \$200. If a licensee refuses to permit the Licensing Program Analyst to see the receipts, cite \$100 penalty for the number of parents whose children are present on the day of the visit.

**1-0060 CIVIL PENALTIES ASSESSED FOR FAILURE
TO MEET PLAN OF CORRECTION DATE****1-0060**

When a citation is issued, a Plan of Correction Date is established. A follow-up visit is conducted within ten working days of the Plan of Correction Date and if deficiencies are not corrected, a civil penalty of \$50 per day per deficiency is assessed beginning on the day after the Plan of Correction Date. **The maximum daily civil penalty assessed for this type of deficiency is \$50 per uncorrected deficiency up to a maximum of \$150. The civil penalty continues until the deficiency is corrected.**

If the follow-up visit is not conducted within ten working days of the Plan of Correction Date a civil penalty **cannot** be assessed. If the deficiency has not been corrected, issue a new citation and establish a new Plan of Correction Date. An immediate civil penalty cannot be assessed for this new citation. This new citation will be counted as the first deficiency in the progressive civil penalty process.

Foster Family Agency

Annual inspections of Foster Family Agencies may include visits to more than one certified home. Citations of the same subsection at more than one certified home will not constitute a repeat citation for purposes for assessing immediate civil penalties. These deficiencies will be cited as one violation against the Foster Family Agency.

The Foster Family Agency will be given a Plan of Correction. If the deficiency(ies) are not corrected by the Plan of Correction date, initial civil penalties will be assessed.

Family Child Care Home

A civil penalty of \$50.00 per day will be assessed if a deficiency within Section 102419 (a)(8), (b), (c), (d), (d)(1), or (d)(2) is not corrected by the Plan of Correction Date. The civil penalty continues until the deficiency is corrected.