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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<b><u>Distribution:</u></b>	<b><u>Transmittal No.</u></b> 07RM-04
<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	<b><u>Date Issued</u></b>  July 2007

**Subject:**

### Reference Material – Documentation

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**Reason For Change:****Revise Section 3-3600 Plan of Correction****Add new Section 3-3605 Clearing the Deficiency****Revise Section 3-3700 Proof of Correction/Non-Visits****Filing Instructions:**

REMOVE – Table of Contents and Pages 12 - 16

INSERT – Table of Contents and Pages 12 - 19

**Approved:***Thomas Stahl, Chief**7/23/07*


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All the forms referred to in this document are available on the Department of Social Services, Community Care Licensing Division web site at: <http://www.cclcd.ca.gov>.

## 3-3600 PLAN OF CORRECTION

3-3600

The Plan of Correction is a means by which licensees/administrators can communicate to the licensing agency and to the public their intentions of bringing their facility into substantial compliance. Plan of Corrections are referenced in Title 22 Regulation Sections 80052, 82052, 87452, 87852, 89252, 101193 and Health and Safety Code Section 1597.56.

The Plan of Correction is usually written on the Licensing Report, however, licensees may decide to submit a written Plan of Correction by a specified date. The Licensing Report must indicate the date by which any deficiencies will be corrected. Plan of Corrections are generally filed in the public section of the licensing office's facility files; the exception to the rule occurs when client's names or other confidential information is part of the Plan of Correction. (See Reference Material - Office Functions Section 2-6500.)

The Plan of Correction must be developed jointly by the facility representative and the Licensing Program Analyst. However, it is the Licensing Program Analyst's responsibility to ensure that the written Plan of Correction is acceptable. If the facility representative is unable to jointly develop the Plan of Correction, the Licensing Program Analyst should provide additional consultation and assistance with the development of the Plan of Correction. The Licensing Program Analyst must not develop the Plan of Correction merely upon the facility representative's request when the facility representative is capable of jointly developing the Plan of Correction.

The Licensing Program Analyst should remind the facility representative that factors for determining the correction date are specified in the regulations. (See Title 22 Regulation Sections 80052, 82052, 87452, 87852, 89252 and 101193). Family Child Care Home statute requires "a reasonable length of time for compliance." In accordance with the regulations for all other licensing categories, four factors must be considered by the Licensing Program Analyst in determining a date for correcting a deficiency:

1. The potential hazard presented by, or the seriousness of, the deficiency.
2. The number of clients/residents/children affected.
3. The availability of equipment or personnel necessary to correct the deficiency.
4. The estimated time necessary for delivery, and for any installation, of necessary equipment.

In addition to #3 and #4 above, Family Child Care Home statute lists the following factors to consider in jointly developing the Plan of Correction:

1. The gravity of the violation.
2. The history of previous violations.
3. The possibility of a threat to the health or safety of any child in the facility.

Plan of Corrections must contain achievable and appropriate due dates. It is not acceptable to state "all corrections will be made in 30 days" on the report. All corrections must occur as soon as reasonably possible.

## 3-3600 PLAN OF CORRECTION (Continued)

3-3600

**Considerations in Determining an Effective Plan of Correction**

The Plan of Correction is subject to Departmental approval. In the joint development of the Plan of Correction, Licensing Program Analysts may offer suggestions to the facility representative regarding their Plan of Correction in order to create an effective plan. The following questions and guidelines should be considered to ensure Plan of Corrections are quality products.

Is the Plan of Correction meaningful? Does the Plan of Correction address the deficiency?

Is this a reasonable method to bring the facility back into compliance?

Does the Plan of Correction offer a plan that will keep the facility in compliance long term? Is this a training opportunity for the facility?

How will the facility use this Plan of Correction to improve compliance?

Is the Plan of Correction measurable? The Licensing Program Analyst must be able to determine **how** the licensee will attain compliance. For example, "I will talk to staff about it" is not a measurable plan. It lacks specific details that convey how compliance will be met. However, "All staff will be required to attend personal rights training within the next 14 days" includes measurable steps.

Is the Plan of Correction verifiable? Does the Plan of Correction include how the licensee will **prove** that the deficiency is corrected? State whether verification will be done through a facility visit, a licensing office meeting or by other means. This is very important because the agreement will require the licensee to comply in a specific fashion. If proof is to be sent in by the licensee, be clear about the expectations in the agreement (e.g., receipts, photos, copies of documents, etc.). The Plan of Correction will also need to specify how proof will be submitted (e.g., mail, drop off, email, etc.).

When determining whether or not a visit is required versus allowing verification by other means, consider the potential risk to clients in care. For example, if a facility has a history of overcapacity or staff to client ratio issues, it is important to visit the facility to ensure they have followed their Plan of Correction and are in compliance and will be able to maintain compliance.

If all of these elements exist in the Plan of Correction, the facility representative and the Licensing Program Analyst can avoid delays and misunderstandings while bringing a licensee into compliance.

**Extending the Plan of Correction**

Extensions are permissible with the following limitations:

- Extension of a Type A deficiency: Licensing Program Analysts must confer with his or her Licensing Program Manager for approval – immediate risk must have been resolved. An extension may be granted for up to 30 days. For example, a broken window may be boarded up to resolve the immediate risk but the replacement window glass may take a week or two. Another example is a personal rights violation. The immediate remedy may include a staff meeting to give staff instruction and the follow up might include training classes in the future.

**3-3600 PLAN OF CORRECTION (Continued)****3-3600**

- Extension of a Type B deficiency: Licensing Program Analysts may approve for up to 30 days.

With either type of deficiency, the factors pertaining to the decision of the extension must be documented on an LIC 178 (Penalty Review/Plan of Correction Extension) and be placed in the facility file.

Extensions for Plan of Corrections that are not requested PRIOR to the Plan of Correction due date shall not be considered.

**3-3605 CLEARING THE DEFICIENCY**

After any visit that includes the issuing of a citation, the Licensing Program Analyst must follow-up to clear any deficiency. During the development of the Plan of Correction, it is established that the correction of the deficiencies will be verified in one of three ways: make a visit, hold an office meeting or verify through other means. A Plan of Correction visit is **always** an option, even if other means of verification are used.

**Making a visit**

When a Plan of Correction visit is made, which should occur within 10 days after the Plan of Correction due date, the Licensing Program Analyst is to verify the condition of the correction. It is important to document on the licensing report what was observed and whether it was acceptable.

Upon determination that the deficiency has been corrected, the Licensing Program Analyst shall complete the Letter of Deficiency Citations Cleared and provide it to the facility representative with the licensing report and place a copy in the facility file.

County licensing staff shall document verification of the correction on a licensing report during visits.

**Holding an office meeting**

An office meeting should be held no later than the Plan of Correction due date. During the meeting, licensing staff shall review any evidence of correction provided by the licensee and document the results of the meeting. If the verification received is deficient in any way, the Licensing Program Analyst has the options of 1) requesting the licensee to provide additional information to correct the deficiency(s) or 2) making a visit to the facility. If the due date cannot be met, the Licensing Program Analyst may extend the due date, See Evaluator Manual 3-3600, Extensions on Plan of Corrections. The Licensing Program Analyst shall provide an Incomplete Proof of Correction Letter, See Evaluator Manual Sections 3-3705, Sample Letters. A licensing report documenting the meeting shall be provided to both parties and a copy placed in the facility file.

**3-3605 CLEARING THE DEFICIENCY (Continued)****3-3605**

Upon determination that the deficiency has been corrected, the Licensing Program Analyst shall complete the Letter of Deficiency Citations Cleared and provide it to the facility representative with the licensing report and place a copy in the facility file.

County licensing staff shall document verification of the correction using the Deficiency is Cleared letter referenced in Evaluator Manual Section 3-3705, Sample Letter – Deficiency Is Cleared.

**Verify through other means**

Refer to Evaluator Manual Section 3-3700, Proof of Correction/Non-Visits

For Child Care Facilities Only: Licensees must post, for 30 consecutive days, the licensing document verifying compliance or noncompliance with the order to correct a deficiency that, if not corrected, would create a direct and immediate risk to the health, safety, or personal rights of children in care (Type A violation). A statement of the posting requirement must be included on the Letter of Deficiency Citations Cleared or Deficiency Is Cleared letter (County) or the licensing report.

**3-3700 PROOF OF CORRECTION/NON-VISITS**

Proof of Correction verification by means other than an office or facility visit is an option that may be used by Licensing Program Analysts. The Proof of Correction form (LIC 9098) may be used for this purpose. Non-visit proofs of correction are permitted under two circumstances: 1) The facility representative may indicate on the Plan of Correction that the deficiencies will be corrected by a specified date and verification will be sent to the licensing office or 2) The licensee or administrator, under certain circumstances, may self-certify that the correction has been made.

The procedures in this section also apply to accepting and verifying evidence of correction after a prelicensing visit.

These procedures must be followed when verifying that the Plan of Correction has been accomplished:

**Submitting Proof**

All proofs of correction in lieu of a visit must be submitted by the licensee or administrator either by the Proof of Correction Form (LIC 9098), which is provided by the Licensing Program Analyst during the exit conference or by other verification. Accompanying documentation would include items such as a receipt, a photograph, or a work order.

**Self-Certification**

Self-certification is a method allowing a licensee or administrator to attest that corrections have been made. This method should be rarely used and shall be limited to the following conditions:

## 3-3700 PROOF OF CORRECTION/NON-VISITS (Continued)

3-3700

- The facility must have a history of substantial compliance.
- There must be no other verifiable evidence that could be submitted to prove the deficiency(s) have been corrected.

For example: if a facility was cited for “water being too hot,” the Licensing Program Analyst would cite and observe that the temperature was turned down on the hot water heater. However, it may take some time before an accurate reading of the water temperature can be made. When the water temperature is too hot, it presents an immediate risk to clients and would be a Type A violation. If the facility meets the criteria listed above, the Licensing Program Analyst may allow the provider to self-certify that they tested the water, have obtained an acceptable temperature and indicate the temperature.

The use of self-certification for type A violations should be carefully considered and may need consultation with a Licensing Program Manager.

The form LIC 9098 is used by the licensee or administrator to certify under penalty of perjury that a correction has been completed. The Licensing Program Analyst is to provide the LIC 9098 to the facility representative during the exit conference only when self-certification is an acceptable means of demonstrating compliance. Whenever self-certifications are used, the licensee or administrator should check the box marked “Certification” if using the LIC 9098 and sign and date the form to certify that the correction(s) has been made according to the Plan of Correction specified on the Licensing Report.

**Clearing the Plan of Correction/ Non Visit**

Upon receipt of the requested verification, the Licensing Program Analyst is to analyze the information in order to determine whether or not the deficiency(s) has been corrected according to the specific Plan of Correction on the Licensing Report. If the verification received is deficient in any way, the Licensing Program Analyst has the option of allowing the licensee to send in the additional information to correct the deficiency(s), (See Evaluator Manual Section 3-3705, Sample Letter - Incomplete Proof of Correction). Whenever possible, minor questions regarding the completeness of the documents should be handled by telephone. If the Licensing Program Analyst chooses to allow the licensee to send in the additional information, an extension should be given to the licensee to send in the missing information, (See Evaluator Manual Sections 3-3600, Plan of Correction and refer to extension guidelines). If the Licensing Program Analyst has concerns about the credibility of the documentation submitted, then a plan of correction visit may be made to the facility to confirm that the correction has been made.

**3-3700 PROOF OF CORRECTION/NON-VISITS (Continued)****3-3700**

To approve and clear a Plan of Correction, the Licensing Program Analyst must be satisfied that the deficiency(s) has been corrected. Under no circumstances should a Plan of Correction be approved if there is doubt about whether a deficiency was corrected. Upon approval, the Licensing Program Analyst shall complete a Letter of Deficiency Citations Cleared and mail it to the licensee. County licensing staff shall document approval and verification of correction using the Deficiency is Cleared letter referenced in Evaluator Manual Section 3-3705, Sample Letter – Deficiency Is Cleared. All related documentation must be placed in the facility file.

For Child Care Facilities Only: Licensees must post, for 30 consecutive days, the licensing document verifying compliance or noncompliance with the order to correct a deficiency that, if not corrected, would create a direct and immediate risk to the health, safety, or personal rights of children in care (Type A violation). A statement of this posting requirement must be included on the Letter of Deficiency Citations Cleared or Deficiency Is Cleared letter (County) or the licensing report.

**Further Action**

Failure to provide adequate proof of correction(s) by the Plan of Correction due date shall result in a visit to the facility and applicable assessment of civil penalties if appropriate (with the exception of Foster Family Homes and Family Child Care Homes.) This is stated on the licensing report. (See Evaluator Manual Section 1-0060, Civil Penalties). Also see Title 22, Sections 80054, 82054, 87454, 87854 and 101195 regarding Civil Penalties.

**SAMPLE LETTER  
INCOMPLETE PROOF OF CORRECTION**

[Today's Date]

Facility's Name:  
Facility Address:

Facility Number:                      Licensing Report Date:

Dear Licensee:

Verification either was not received or was inadequate to substantiate that the deficiency(s) cited on the Licensing Report were corrected. You need to provide the following additional documentation/information:

Please return a copy of this letter and your documentary evidence of correction no later than \_\_\_\_\_. Failure to provide adequate proof of correction by this date will result in assessment of civil penalties.

If you have any questions, please contact me.

Sincerely,

Licensing Program Analyst                      Phone Number

**NOTICE: Child Care Centers and Family Child Care Homes**

If this document reflects noncompliance to correct a Type A violation, you must post this document for 30 days. Family Child Care Homes shall comply during the hours children are in care.

**SAMPLE LETTER  
DEFICIENCY IS CLEARED**  
(For county use only)

[Today's Date]

Facility's Name:  
Facility Address:

Facility Number:                      Licensing Report Date:

Dear Licensee:

This is to confirm that your Proof of Correction (LIC 9098) or other verification with necessary documentation has been received and approved. The following deficiencies are cleared:

If you have any questions, please contact me.

Sincerely,

Licensing Program Analyst                      Phone Number

**NOTICE: Child Care Centers and Family Child Care Homes**

If this document reflects proof of correction for a Type A violation, you must post this document for 30 days. Family Child Care Homes shall comply during the hours children are in care.