
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> 12APX-11
	<u>Date Issued</u> July 2012

Subject:

Appendices: Appendix A, 2010 Chaptered Legislation, Child Care Centers and Family Child Care Homes

Nutritious Beverages in Child Care Facilities

Reason for Change:

Implementation Plan for AB 2084 (Brownley), Chapter 593, Statutes of 2010

Filing Instructions:

REMOVE –

INSERT – Summary and Implementation Plans
 2010 Chaptered Legislation
 Child Care Centers and Family Child Care Homes

Approved:

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7-20-12

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**SUMMARY AND IMPLEMENTATION PLANS
2010 CHAPTERED LEGISLATION**

**CHILD CARE CENTERS
AND FAMILY CHILD CARE HOMES**

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Unless otherwise noted, all new legislation becomes effective on January 1, 2011. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

AB 2084 (Brownley), CHAPTER 593, STATUTES OF 2010

Affects: Child Care Centers (CCCs) and Family Child Care Homes (FCCHs)

Subject: Nutritious Beverages in Child Care Facilities

Summary: AB 2084 added Section 1596.808 to the Health and Safety Code related to nutritious beverages and affects all licensed child care facilities. *The law went into effect January 1, 2012.* The Department shall determine compliance with AB 2084, Section 1596.808 of the Health and Safety Code, during regularly scheduled, authorized inspections. If the department conducts its regularly scheduled, authorized inspections pursuant to a key licensing indicator system, then checking for compliance with Section 1596.808 shall be added to the key licensing indicator system protocol.

The new law requires CCCs and FCCHs to comply with the following beverage provisions:

- Whenever milk is served, serve only low-fat (1 percent) milk or nonfat milk to children two years of age or older.
- Limit juice to not more than one serving per day of 100 percent juice.
- Serve no beverages with added sweeteners, either natural or artificial. "Beverages with added sweeteners" does not include infant formula or complete balanced nutritional products designed for children.
- Make clean and safe drinking water readily available and accessible to children for consumption throughout the day.

Exceptions:

1. If a child has a medical necessity documented by a physician that includes the need for "medical food" as defined by Section 109971 of the Health and Safety Code, a licensed child care facility shall be exempt from complying with the beverage requirements to the extent necessary to meet the medical needs of that child.
 - California Health & Safety Code § 109971 (2012): "Medical food" means any product that meets the definition of medical food in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360ee(b)(3)).
 - Federal Food, Drug, and Cosmetic Act (21 USCS § 360ee): The term "medical food" means a food which is formulated to be consumed or administered internally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.
2. These requirements do not apply to beverages at a licensed child care facility that are provided by a parent or legal guardian for his or her child.

This bill also provides:

As the Dietary Guidelines for Americans, published jointly by the federal Department of Health and Human Services and the federal Department of Agriculture, are updated every five years, the department may adapt the provisions of this section (Section 1596.808) by bulletin, as necessary, so that the standards continue to reflect the most recent relevant nutrition science and continue to improve the health of children in child care.

Implementation:

The law went into effect on January 1, 2012. The department, through the Licensing Program Analyst (“LPA”), shall determine compliance with Section 1596.808 of the Health and Safety Code during regularly scheduled, authorized inspections. Regularly scheduled, authorized inspections include the annual, random, and 5-year inspections pursuant to the California Health and Safety Code Sections 1597.09 and 1597.091 (CCCs), and 1597.55a and 1597.55b (FCCHs). The department is to respond to complaints for violations of this law pursuant to existing law and regulation.

For CCCs that are not in compliance with this new law, LPAs will cite Health and Safety Code Section 1596.808. Note that for CCCs, LPAs may also cite for violation of associated regulations, including those indicated in the chart below.

For FCCHs that are not in compliance with this new law, LPAs will cite Health and Safety Code Section 1596.808.

Following are existing regulations available to LPAs that enable them to confirm the facility’s compliance with Section 1596.808.

Current Regulations Related to Checking Compliance with Section 1596.808:

FCCHs:

Section 102417: FCCHs are required to label food brought from home with the child’s name and properly store or refrigerate food.

CCCs:

<p>1. Child’s records</p>	<ul style="list-style-type: none"> • <u>Section 101221:</u> Medical assessment and dietary restrictions and allergies; record of illness or injury requiring treatment by a physician for which the center provided assistance to the child in meeting his/her medical need. Record shall be available to the department to inspect. • <u>Section 101220:</u> Medical assessment of child shall identify child’s special problems and needs, and identify any prescribed medications being taken by the child.
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	<ul style="list-style-type: none"> • <u>Section 101419.2(a), (b), (b)(1)</u>: At CCCs for infants a needs and services plan is to be created for the infant prior to first day. It shall be in writing and shall include the individual feeding plan. • <u>Section 101427(b), (b)(1)</u>: At CCCs for infants each infant shall have an individual feeding plan and it shall be completed and available for use prior to the infant’s first day. • <u>Section 101626 (c), (c)(1), (c)(2), (c)(2)(C)</u>: At CCCs for mildly ill children, a written plan of care shall be developed for each child and shall be updated daily. The plan shall be maintained in the child’s record, and include dietary restrictions. • <u>Section 101621</u>: At CCCs for mildly ill children the child’s record shall include information regarding allergies. • Note: At CCCs for Infants and at CCCs for Mildly Ill Children there are additional requirements regarding written needs and services plans, feedings plans, and plans of care.
<p>2. Written menus</p>	<ul style="list-style-type: none"> • <u>Section 101227(a)(6)</u>: Required to have written menus posted at least one week in advance in an area accessible for review. Copies of these menus are to be dated and kept on file for at least 30 days. Copies of these menus shall be made available for review by the child’s authorized representative and the Department upon request.
<p>3. Food served</p>	<ul style="list-style-type: none"> • <u>Section 101227(b), (b)(1)</u>: Department has the authority to require the center to provide documentation on food purchased and used over a given period, including menus, when necessary to determine if the licensee is complying with the food-service requirements of this chapter. • <u>Section 101427(e)</u>: At CCCs for infants the infant’s authorized representative may provide formula or breast/mother’s milk. • <u>Section 101427(e)(1), (e)(1)(A)</u>: At CCCs for infants such formula or milk shall be bottled before being accepted by the center and such bottles shall be labeled. • <u>Section 101527(a), (b)</u>: At CCCs for school-age children, programs providing before--and/or after—school care shall make available and offer nutritious snacks to children. • <u>Section 101627(b)</u>: For mildly ill children, individual meals and snacks to be prepared in accordance with the requirements of each child’s admission agreement and plan of care. <u>Section 101627(c)</u>: For mildly ill infants, individual meals and snacks to be prepared in accordance with the requirements of each infant’s admission agreement, feeding plan and plan of care.
<p>4. Modified diet prescribed by physician</p>	<ul style="list-style-type: none"> • <u>Section 101227(a), (a)(7)</u>: Modified diets prescribed by a child’s physician as a medical necessity shall be provided in CCCs providing meals. • <u>Section 101227(a)(7)(A)</u>: Obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.

	<ul style="list-style-type: none"> • <u>Section 101227(a)(7)(B)</u>: A child shall not be served any food to which the child’s record indicates he/she has an allergy. • <u>Section 101427(b)(3)</u>: At CCCs for infants the individual feeding plan shall include instructions from the infant’s physician relating to special diet or feeding, a feeding schedule, breast milk or kind of formula, and food allergies.
<p>5. Clean and safe drinking water</p>	<ul style="list-style-type: none"> • <u>Section 101239.2</u>: Provide clean and safe drinking water. • <u>Section 101639.2(c)</u>: CCCs for mildly ill children are required to make drinking water from noncontaminating fixture or container readily available to children both indoors and in the outdoor activity area.
<p>6. Water analysis <i>(only where water from private source)</i></p>	<ul style="list-style-type: none"> • <u>Section 101172 (1)</u>: CCC shall provide evidence of an onsite inspection of the source of the water and a bacteriological analysis that establishes the safety of the water. The inspection and analysis shall be conducted by the local health department, the California Department of Health Services or a licensed commercial laboratory. • <u>Section 101172 (2)</u>: Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as necessary to ensure the safety of the children, but no less frequently than specified in the table provided.