
EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:

- All Child Care Evaluator Manual Holders
 All Residential Care Evaluator Manual Holders
 All Evaluator Manual Holders

Transmittal No.

14APX8

Date Issued

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Subject:

Appendix A - Chaptered Legislation

AB 290/Alejo - Child Day Care: Childhood Nutrition Training

SB 1087/Walters – Child Care Exemption from licensure

AB 1108/ Perea - Sex Offenders: Foster Family Homes: prohibitions

Reason for Change:

This document transmits summaries of legislation chaptered in 2013 affecting Child Care Facilities. Statutes referenced in this document will become operative on January 1, 2016 unless otherwise noted.

Filing Instructions:

REMOVE: 14APX5 2013 Chaptered Legislation for Child Care Centers and Family Child Care Homes

INSERT: 14APX8 2013 Chaptered Legislation for Child Care Centers and Family Child Care Homes.

Approved:*Signed by Nancy Lunardi**4/2/2014*

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**SUMMARY AND IMPLEMENTATION PLANS
2013 CHAPTERED LEGISLATION**

CHILD CARE CENTERS AND FAMILY CHILD CARE HOMES

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INFORMATION ONLY – NO ACTION REQUIRED

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Unless otherwise noted, all new legislation becomes effective on January 1, 2014. 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 290 (Alejo), CHAPTER 734, STATUTES OF 2013

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

Subject: Child Day Care: Childhood Nutrition Training

Summary: AB 290 amended Health and Safety Code sections 1596.865, 1596.866, and 1596.8661 to require that for licenses issued on or after January 1, 2016, at least one director or teacher at each child day care center, and each family day care home licensee shall have at least one hour of childhood nutrition training as part of the required preventive health practices training.

The instruction in childhood nutrition shall be at least one hour in length and is in addition to the required minimum 15 hours of overall health and safety training required. The instruction in childhood nutrition shall include content on age-appropriate meal patterns based on the current Dietary Guidelines for Americans, and contain information about reimbursement rates for the United States Department of Agriculture's (USDA) Child and Adult Care Food Program, (CACFP) and direct child care providers to the CACFP Unit of the Nutrition Services Division of the State Department of Education for detailed information on CACFP eligibility and enrollment.

IMPLEMENTATION:

Existing law (prior to AB 290) requires at least one director or teacher at each child care center, and each family day care home licensee to have *at least 15 hours* of health and safety training to include the following components:

1. Pediatric first aid, which beginning in January 2000 shall include completion of training in administering inhaled medication to children with respiratory needs, including the use of nebulizer equipment;
2. Pediatric cardiopulmonary resuscitation (CPR); and
3. A preventative health practices course or courses that include instruction in the recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries.

Effective January 1, 2016

For licenses issued on or after January 1, 2016, at least one director or teacher at each day care center, and each family day care home licensee who provides care, shall have at least one additional hour of childhood nutrition training as part of the three components of preventive health practices course or courses.

The one-hour childhood nutrition training will be in addition to the overall preventive health practices training requirements of *at least 15 hours, which means the total number of required training will be at least 16 hours*. During the application review process, the Licensing Program Analyst shall review a certificate of course completion, course completion cards, or certified copies of transcripts that identify the number of hours and the specified course or courses taken for the training.

The Department recognizes the following situations as new licenses issued:

- New application
- Relocation
- Transfer and sale (**CCC only**)

Until the regulations are revised, use the provision in the Health and Safety Code section 1596.866 as the citing authority.

ACTION REQUIRED

SB 1087 (WALTERS), CHAPTER 652, STATUTES OF 2013

Affects: Child Care Centers

Subject: Child Care Exemption from licensure – After School Education and Safety (ASES) Program and Recreation Programs

Summary:

SB 1087 amended Education Code section 8484.3 to extend the number of hours during which an ASES program operated by a city, county, or nonprofit organization may operate without obtaining a child day care license:

- From 30 hours per week to 60 hours per week, provided a pupil shall not be allowed to attend the ASES program for more than 30 hours per week.

The bill also amended Health and Safety Code section 1596.793 to add to the list of license exempt recreation programs (Girls Scouts, Boy Scouts, Boys and Girls Clubs, Camp Fire USA) the *recreation* programs for children conducted by the following:

- YMCA,
- organized camps, or
- similar organizations

However, child day care programs conducted by the organizations identified in Health and Safety Code section 1596.793 and the fees charged for those purposes are subject to licensure.

This bill became effective January 1, 2013.

Implementation

ASES provisions:

The exemption from licensure applies to ASES programs operated by a city, county, or nonprofit organization. ASES is an After School Education and Safety Program established pursuant to Education Code sections 8482 - 8484.6.

As a result of the change in the law, it is feasible that commencing January 1, 2013, some ASES programs that may have previously been required to obtain a license to operate for more than 30 hours per week, could now operate for up to 60 hours without being required to obtain a license. If an ASES program operates for more than 60 hours per week, a license will be required.

Furthermore, if an ASES program allows a child to attend the program for more than 30 hours per week, a license will be required. When an LPA receives a complaint, or observes an ASES

program in operation, she will need to confirm that the hours of operation do not exceed 60 per week; and that a pupil is not allowed to attend for more than 30 hours per week.

Please note that if it is not an ASES program, an outside organization or individual using a public or private school site to operate a child care program remains subject to licensure pursuant to Title 22, regulation section 101158(a)(8)(B).

Recreation Program Provisions:

In addition to the existing exemption from licensure for recreation programs conducted for children by the Girls Scouts, Boy Scouts, Boys and Girls Clubs and Camp Fire, beginning January 1, 2013, the following programs conducted for children will also be exempt from licensure:

- YMCA recreation programs;
- Organized recreation programs;
- Or recreation programs conducted by similar organizations

Effect on unlicensed programs:

As a result of this bill, licensing requirements do not apply to recreation programs conducted for children by the YMCA, Girl Scouts of the USA, Boy Scouts of America, Boys and Girls Clubs, Camp Fire USA, organized camps, or *similar organizations*.

Until regulations are developed to clarify what is meant by "similar organizations", the field must, on a case-by-case basis, determine whether recreation programs offered by other entities will, or will not, be subject to licensure. In this regard, SB 1087 has failed to provide CDSS licensing staff with guidance to determine whether other privately operated recreation programs shall require licensure. As a result, private recreation programs will be subject to licensure unless the organization operating the recreation program is determined by licensing to be "similar to" the above listed entities.

In addition, SB 1087 is silent as to the licensing status of organized camp programs that are *non-recreational* in nature. An organized camp that operates a social, educational, or spiritual program could be subject to licensure.

When a Regional Office (RO) receives a complaint alleging that a facility is operating without a license, CDSS is required by law to review the complaint and make an onsite inspection within 10 days of receipt of a complaint.

If it is determined that a facility is providing nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis, a child care facility license will be required, unless the facility meets one of the exceptions to, or exemptions from licensure.

The Licensing Program Analyst (LPA) will evaluate whether the facility meets any of the exemptions. If the facility does not meet any of the exemptions, the LPA will issue a

Notice of Operation in Violation of Law (LIC 195), and the facility operating the public recreation program will be required to either:

1. File an application for a child care center license within 15 days, or
2. Cease unlicensed operation.

Failure to comply with the Notice of Operation in Violation of Law (LIC 195) may result in a civil penalty, the filing of an action to enjoin the continued operation, and/or a criminal misdemeanor action as provided in Health and Safety Code sections 1596.89; 1596.890; 1596.891; 1597.61 and Title 22 regulation sections 101157; 101198; 102393 and 102394.

INFORMATION ONLY - NO ACTION REQUIRED

Assembly Bill 1108 (Perea), Chapter 772, Statutes of 2013

This bill became effective January 1, 2014.

Affects: Group Homes, Foster Family Homes, Certified Family Homes, Foster Family Agencies, Small Family Homes, Community Treatment Facilities, Transitional Housing Placement Providers, Crisis Nurseries, and Child Care Facilities.

Subject: Sex offenders: foster care homes: prohibitions. Assembly Bill (AB) 1108 added Section 3003.6 to the Penal Code.

Summary:

AB 1108 added Section 3003.6 to the Penal Code to make it a misdemeanor for any person required to register as a sex offender, based on the commission of an offense against a minor, to reside (except as a client), to work, or to volunteer in any of the following facilities:

- A child day care facility that is licensed by the Department.
- A children's residential facility that is licensed by the Department.
- A home certified by a foster family agency, or approved by a county child welfare services agency.
- A home or facility that receives a placement of a child who has been, or may be, declared a dependent child of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code or who has been, or may be, declared a ward of the juvenile court pursuant to Section 601 or 602 of the Welfare and Institutions Code.

Existing Laws:

All adults residing, working, or volunteering (other than those volunteers who are exempt by statute) in a children's facility licensed by the Department are required to be fingerprinted and subject to a criminal history background check. After review of the record, the director may grant an exemption from disqualification for a license, or for employment, residence or presence in a child day care facility if the director has substantial and convincing evidence to support a reasonable belief that the person convicted of the crime, is of good character so as to justify granting an exemption. However, an exemption may not be granted if the conviction was for any of the designated criminal offences, including subdivision (c) of Section 290 of the Penal Code. Thus, if an adult is required to register as a sex offender, the Department may take action to exclude the adult from residing, working, or volunteering in the licensed facility pursuant to Sections 1522, or 1596.871 of the Health and Safety Code.

Background:

The Department will continue to perform Megan's law checks and compare address matching for all applicants for licensure and upon visits as circumstances warrant. When a registered sex offender is found to be present, working, or residing in a licensed facility or certified family home, the Department will take appropriate action, which may include any of the following: obtaining an exclusion order, a Temporary Suspension Order, revocation of the license, or requiring decertification of the certified family home.

Implementation:

No action is required. While the bill does not mandate the Department to cross report to law enforcement, a LPA may wish to notify law enforcement when a registered sex offender is residing, working, or volunteering at a licensed facility or certified family home. This may enable law enforcement to take action against the offender, who could be charged with a misdemeanor violation pursuant to the provisions of this bill.