
EVALUATOR MANUAL TRANSMITTAL SHEET

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| <u>Distribution:</u> | <u>Transmittal No.</u> 14APX9 |
| <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>Date Issued</u> November 2012 |

Subject:

2010 Chaptered Legislation - Appendix A - Child Care Centers and Family Child Care Homes
 Nutritious Beverages in Child Care Facilities
 TrustLine Registry Program—Ancillary Day Care Centers
 Heritage School Instruction
 Kindergarten Age of Admission

Reason for Change:

This document transmits summaries of legislation chaptered in 2010 affecting Child Care Centers and Family Child Care Homes.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document became operative on January 1, 2011. (Note: SB 702 was chaptered in 2009 and became effective January 1, 2011)

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Approved:

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4/7/14

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SUMMARY AND IMPLEMENTATION PLANS 2010 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, 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.

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:

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| <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. |

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| | <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. |

ACTION REQUIRED

SB 702, CHAPTER 199, STATUTES OF 2009
AB 222, CHAPTER 431, STATUTES OF 2010

Affects: Child Care Centers

Subject: TrustLine Registry Program—Ancillary Day Care Centers

Summary: SB 702 was passed by the legislature in 2009 and became operative January 1, 2011.

SB 702 added Section 1596.656 to the Health and Safety Code requiring that a person who provides child care in an ancillary day care center be registered as a TrustLine provider.

In SB 702, ancillary day care center was defined in an amendment to Health and Safety Code Section 1596.60(a)(4) to mean:

“A day care center, as defined in Health and Safety Code Section 1596.76, that is associated with an athletic club, grocery store, or other business or group of businesses that is not required to be licensed pursuant to subdivision (k) of Section 1596.792 that provides a day care center that is ancillary to its principal business activity and that provides day care services, with or without a fee, for the children of the clients or customers of that business or group of businesses while the clients or customers are engaged in shopping for, or purchasing, goods or services from that business or group of businesses.”

Health and Safety Code Section 1596.76 defines a day care center as any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.

Health and Safety Code Section 1596.792(k) provides the following exemption from licensure:

- (k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:
 - (1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.
 - (2) The child day care program is not operated on the site of a ski facility, shopping mall, Department store, or any other similar site identified by the State Department of Social Services by regulation.

SB 702 also added Section 1596.616 to the Health and Safety Code to provide that, notwithstanding the fee provisions in Section 1596.61, the Department shall charge a fee to each Trustline applicant who provides care in an ancillary day care center, that is

equal to the total amount required by the Department to process applications and maintain the Trustline registry for these providers.

AB 222 was introduced in 2010 and also went into effect January 1, 2011, to provide as follows:

Health and Safety Code Section 1596.616 was amended to state:

The Department shall charge a fee to each Trustline applicant who provides care in an ancillary day care center that is equal to *and does not exceed* the total amount required by the Department to process applications and maintain the Trustline registry for these providers.

Health and Safety Code Section 1596.656 was amended to ensure that nothing in the Trustline provider provisions shall be construed to prevent a person under 18 years of age from being employed in an ancillary day care center.

If a person 18 years of age or older is denied Trustline registration by the Department pursuant to Section 1596.605 or 1596.607 (pertaining to convictions and arrests that pose a risk to the health and safety of children in care), or if the Department revokes a person's Trustline registration pursuant to Section 1596.608 (pertaining to fraud, criminal convictions, child abuse or neglect, etc.), that person shall be ineligible for employment in a position providing child care or child care supervision in an ancillary day care center.

If an existing employee providing child care or child care supervision in an ancillary day care center, or a prospective employee seeking employment in a position that provides child care or child care supervision in an ancillary day care center, submits an application to the Department to become a registered Trustline child care provider, that existing or prospective employee shall be deemed to be in compliance with the requirements of this section and permitted to work in a position providing child care or child care supervision pending the Department's review of his or her Trustline application.

The existing or prospective employee shall become ineligible for employment providing child care or child care supervision in an ancillary day care center if the Department denies his or her Trustline application and any right to appeal the Department's denial has been exhausted or has expired.

Implementation:

During investigations of unlicensed operations that meet the definition of an ancillary child day care center (Health and Safety Code, Section 1596.60(a)(4)), licensing staff shall notify the business owner /operator of Health and Safety Code Section 1596.656 which mandates that a person 18 years of age or older, who provides child care or child care supervision in an ancillary day care center, is required to be Trustline registered.

The existing or prospective employee shall become ineligible for employment providing child care or child care supervision in an ancillary day care center if the Department denies his or her Trustline application and any right to appeal the Department's denial has been exhausted or expired.

ACTION REQUIRED

SB 1116 (HUFF) CHAPTER 286, STATUTES OF 2010

Affects: Child Care Centers

Subject: Heritage School Instruction

Summary: SB 1116 adds to the Education Code (EC) Sections 33195 - 33195.6

SB 1116 requires every person, firm, association, partnership, or corporation operating a heritage school as defined in EC Section 33195.4 to file with the Superintendent an electronic registration form, under penalty of perjury, by the owner, between the 1st and 31st day of January of each year, beginning January 1, 2011.

SB 1116 defines heritage schools, in EC Section 33195.4, to mean a school that serves children who are at least 4 years and 9 months of age and no older than 18 years of age, who attend a public or private full-time day school, that does all of the following:

- Specifies regular hours of operation.
- Offers education or academic tutoring, or both, in a foreign language.
- Offers education on the culture, traditions, or history of a country other than the United States.
- Offers culturally enriching activities, including, but not limited to, art, dancing, games, or singing, based on the culture or customs of a country other than the United States.
- Maintains membership in a state or national cultural or language association.
- Complies with relevant local government regulations, where applicable.
- Does not operate out of a residential home.
- Complies with the requirements of EC Section 33195 and maintains in its possession a copy of the registration form electronically filed with the Superintendent. The heritage school shall make this form available upon request, including to the State Department of Social Services, to verify exemption from child care licensure. (EC section 33195.4(h))

EC Section 33195.6(e) provides that a heritage school, as defined in EC Section 33195.4, shall not be subject to licensure by the State Department of Social Services as a child day care center pursuant to Chapter 3.4 (commencing with Section 1596.70) or Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code).

EC Section 33195.6(f) further provides that upon a pupil's enrollment in a heritage school, the heritage school shall provide notice to the pupil's parent or guardian that the heritage school is exempt from child care licensure.

Implementation:

While the California Department of Social Services (CDSS) does not have jurisdiction over facilities exempt from licensure, such as heritage schools, it does have the authority to investigate complaints filed against facilities that operate as a child care facility without a license. When a complaint of unlicensed operation is received, the Regional Office (RO) will determine if the complaint is valid. The RO will check the California Department of Education (CDE) website to determine if the facility is registered as a heritage school with CDE.

Complaint allegations against facilities operating as heritage schools without a current valid registration will be investigated and subject to an onsite inspection to determine if such facilities require a child care license in accordance with the California Child Day Care Act (Health and Safety Code, Division 2 Licensing Provisions, Chapters 3.4, 3.5 and 3.6).

Heritage schools are required to file an electronic registration form annually with the Superintendent of Public Instruction. They are to maintain in their possession and make available to the CDSS upon request a copy of the registration form filed electronically.

During the investigation of unlicensed care the Licensing Program Analyst (LPA) is to request the unlicensed facility (who declares to be a heritage school) to provide a copy of the current year's electronic registration form. If the facility fails to provide a copy of their registration form for the current year, the LPA is to determine whether the facility meets any statutory exception including those listed in Health and Safety Code section 1596.792, or other exemption from the CDSS licensure, or is otherwise in violation of HSC Section 1596.80. If it is determined that a person, firm, partnership, association, or corporation is operating, has established, is managing, conducting, or maintaining a child day care facility in the state of California without a current valid license, the LPA is to issue a Notice of Operation in Violation of the Law (LIC 195), which states the facility has 15 days to apply for a license or must cease unlicensed operation.

Registration to become a heritage school is offered January 1-31st of every year. After the CDE filing period closes, programs operating out of compliance with the law will be cited as appropriate. They may need to become licensed, change their business model to meet an existing child care licensing exemption, or cease operating until they file an electronic registration form with the CDE in January of the following year.

Technical Assistance:

Unlicensed facilities interested in learning whether their facility meets the definition of a heritage school and are interested in filing an electronic registration with the Superintendent, are to be directed to the CDE website at: <http://www.cde.ca.gov/ls/pf/he/>. The CDE has developed "Frequently Asked Questions" to assist interested facilities in learning the requirements and how to register as a heritage school.

INFORMATION ONLY – NO ACTION REQUIRED

SB 1381 (Simitian), CHAPTER 1381, STATUTES OF 2010

Affects: Child Care Facilities

Subject: Kindergarten Age of Admission

Summary: SB 1381 shall be known as the Kindergarten Readiness Act of 2010. Education Code Sections 46300, 48000, and 48010 relating to kindergarten are amended. This bill changes the required birthday for a child's admission to kindergarten and to the first grade. In addition, it establishes a transitional kindergarten program.

A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year, if the child will have his or her fifth birthday on or before one of the following dates:

- December 2 of the 2011-12 school year
- November 1st of the 2012-13 school year
- October 1st of the 2013-14 school year
- September 1st of the 2014-15 school year and each school year thereafter

A child, whose admission to a traditional kindergarten is delayed because his /her birthday is between the new (earlier) required date and December 2, shall be admitted to a transitional kindergarten maintained by the school district. A transitional kindergarten means the first year of a two-year kindergarten program that uses a modified curriculum that is age and developmentally appropriate. A child is eligible for transitional kindergarten if a child will have his or her fifth birthday between:

- November 2 and December 2 of the 2012–13 school year
- October 2 and December 2 of the 2013–14 school year
- September 2 and December 2 of the 2014–15 school year and each school year thereafter

Transitional Kindergartners shall be included as kindergartners for purposes of enforcing licensing requirements.

A child shall be admitted to the first grade of an elementary school during the first month of a school year if the child will have reached his or her sixth birthday on or before one of the following dates:

- December 2 of the 2011-12 school year
- November 1 of the 2012-13 school year
- October 1 of the 2013-14 school year
- September 1 of the 2014-15 school year and each school year thereafter