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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<p><b><u>Distribution:</u></b></p> <p>_____ Adult and Senior Care Program          _____ Children's Residential Program  <input checked="" type="checkbox"/> Child Care Program          _____ All Programs</p>	<p style="text-align: center;"><b><u>Transmittal No.</u></b></p> <p style="text-align: center;"><b>16FCCH-02</b></p> <hr/> <p style="text-align: center;"><b><u>Date Issued</u></b></p> <p style="text-align: center;">September 2016</p>
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**Subject:**

Regulation Interpretations and Procedures for Family Child Care Homes

Section 102368, License

**Reason for Change:**

Revises Section 102368

**Filing Instructions:**

REMOVE: pages 5-6

INSERT: pages 5-6

**Approved:**

*Original signed by Shanice Boyette*

*9/29/2016*

\_\_\_\_\_  
**SHANICE BOYETTE, Chief**  
 Policy and Administrative Support Bureau  
 Community Care Licensing Division

\_\_\_\_\_  
 Date

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**ARTICLE 3 APPLICATION PROCEDURES****102368 LICENSE****102368**

(c)

**POLICY**

As places of public accommodation, licensed child care facilities have obligations under federal and state disability laws including Title III of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12181, et seq., and the California Unruh Civil Rights Act and California Disabled Persons Act. (Civil Code Sections 51 et seq. and 54 et seq.) The Americans with Disabilities Act makes it illegal for places of public accommodation, which include child care facilities, to discriminate against a child with a disability.

Under the Americans with Disabilities Act, an individual (including a child) is considered “disabled” if he/she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment (meaning other people treat the individual as if he/she is disabled whether or not that is actually the case.) For example, this might include a child who requires medication or services for conditions such as asthma, allergies, diabetes, epilepsy, or gastric tube feeding.

A child care facility may not refuse outright to serve a child with a disability, but is required to undertake an individualized assessment of the situation if the facility receives a request to provide an accommodation for a child with a disability. A child care facility shall make reasonable accommodations as necessary to provide equal services to a child with a disability. However, a child care facility is not required to provide an accommodation if doing so would fundamentally alter the basic nature of the services it offers. The laws do not require an accommodation if the requested action would impose an undue burden.

Applicants should be aware that it is the responsibility of each child care licensee to determine its legal obligations under the Americans with Disabilities Act and California disability laws. Child care applicants and licensees may want to consult with an attorney for advice.

**PROCEDURE**

Consistent with its policies, the Department allows the accommodation of children with disabilities in licensed child care facilities, including the provision of incidental medical services.

Licensing Program Analysts may share the following information with applicants, licensees, parents, and the public when questions arise related to the Americans with Disabilities Act:

- The U.S. Department of Justice operates a toll-free Americans with Disabilities Act Information Line to provide information and materials to the public about the requirements of the Americans with Disabilities Act. To get answers to technical questions, obtain general Americans with Disabilities Act information, or order free Americans with Disabilities Act materials, child care facilities, parents, and other members of the public may call 800-514-0301(voice)/800-514-0383 (TTY).
- U.S. Department of Justice publications include a Commonly Asked Questions about Child Care Centers and the Americans with Disabilities Act, available at <http://www.ada.gov/childqanda.htm>.

**PROCEDURE** (Continued)

- For additional information, individuals should contact:

U.S. Department of Justice  
 950 Pennsylvania Avenue, NW  
 Civil Rights Division  
 Disability Rights Section - NYA  
 Washington, D.C. 20530  
 (800) 514-0301  
 (800) 514-0383 (TTY)

Individuals may also contact the following agency:

- The local office of the California Department of Fair Employment and Housing. The California Department of Fair Employment and Housing has information and will coordinate with federal agencies as appropriate. The website is located at: [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

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**POLICY**

Co-licensees are allowed to be on the license; this includes married and unmarried co-licensees provided they live in the home. Each licensee must attend the orientation, sign the application, and meet all background check and training requirements including CPR, First Aid, and preventive health practices.

**POLICY****CONDITIONS FOR FOREITURE OF LICENSE – NON-PAYMENT OF FEES**

Section 1596.803 is added to the Health and Safety Code which states in part that failure to pay the required license fees, including the finding of insufficient funds to cover bona fide business or personal checks submitted for this purpose, shall constitute grounds for denial of a license or forfeiture of a license. Until regulations are developed regarding forfeiture of a license due to nonpayment of licensing fees use Health and Safety Code Section 1596.803 as your citing authority.

The object of citing a licensee as “unlicensed” without an actual facility visit when the licensee admits to continuing operation will save both the time and the effort of local licensing office staff.

**PROCEDURE**

Refer to Evaluator Manual Annual Fees Section 3-1400.

The **PROCEDURE** stated below applies to Health and Safety Code Section 1596.803.

When there is no proof of payment or information stating the licensee has ceased operation and surrendered their license in the facility file, licensing staff shall attempt to contact the licensee to find out if the licensee plans to continue operating.

If the licensee is believed to be operating, licensing staff are to contact the licensee by phone and advise them that their annual licensing fee must be paid prior to their anniversary date. Licensees are to be advised that failure to pay their annual fee shall result in the forfeiture of their license and may make them subject to civil penalties.