

## Current Policy

### Title 28

## EDUCATION

### Board of Elementary and Secondary Education

#### Part CLXI. Bulletin 137— Louisiana Early Learning Center Licensing Regulations

### Chapter 1. General Provisions

#### §101. Purpose and Authorization

A. The purpose of this bulletin is to set forth the rules and regulations necessary to implement the provisions of R.S. 17:407.31 et seq., that require the state Board of Elementary and Secondary Education (BESE) to establish statewide minimum standards for the health, safety and well-being of children in early learning centers, ensure maintenance of these standards, and regulate conditions in early learning centers through a program of licensing administered by the Department of Education, Licensing Division (Licensing Division).

B. The state superintendent of education (state superintendent), in order to carry out functions otherwise vested in the state superintendent by law, or by delegation of authority pursuant to law, is authorized to make, issue, rescind, and amend Licensing Division guidelines, interpretive guidance and procedures governing the early childhood licensing program administered by the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.32.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015.

#### §103. Definitions

*APA*—Louisiana Administrative Procedure Act found at R.S. 49:950 et seq.

*Anniversary Date*—the last day of the month in which the center’s original license was issued and the date by which the license must be renewed each year.

*BESE*—Louisiana state Board of Elementary and Secondary Education.

*Behavior Management*—the ongoing positive process of helping children develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

*Bureau*—Louisiana Bureau of Criminal Identification and Information, part of the Office of State Police within the Department of Public Safety and Corrections.

*Bus Monitors*—staff with specific transportation-related responsibilities that include assisting the driver in ensuring the safety of children while they ride in, board, or exit a vehicle, and during transportation emergencies.

*CBC*—criminal background check.

*CCCBC*—child care criminal background check.

*Camp*—any place or center operated by any institution, society, agency, corporation, person or persons, or any other group that serves only children ages five and older and operates only when schools are not in session for the summer months or school holidays.

*Capacity*—the number of children the provider is licensed to care for at any given time as determined by the Licensing Division.

*Center*—see *early learning center*.

*Center Staff*—see *staff*.

*Change of Location*—change in physical address/location of the center.

*Change of Ownership*—a transfer of ownership of a currently licensed center that is in operation and caring for children, to another entity without a break in service to the children currently enrolled.

*Child*—person who has not reached age 18 or otherwise been legally emancipated.

*Child Care Criminal Background Check (CCCBC)*—information received by the department upon request for information pursuant to requirements set forth in R.S. 17:407.42, 45 CFR 98.43(b), and Chapter 18 of this Bulletin.

*Child Care Health Consultant*—qualified health and safety professional approved by DHH to provide training, consultation, and technical assistance to out of home child care facilities and early childhood education staff (and parents) on health and safety topics.

*Child Care Market Rate Survey*—a survey that measures the prices charged by child care providers and paid by parents in a given child care market. The Child Care and Development Fund Programs require states to conduct child care market rate surveys.

*Child Care Purposes*—for early learning centers, child care purposes are owning, operating or participating in the governance of an early learning center; being hired by an early learning center as a volunteer, staff member, employee or independent contractor of any kind; or being present at an early learning center when not exempt from the requirement for a CCCBC-based determination of eligibility for child care purposes.

*Child Day Care Center*—any place or center operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven

or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week.

1. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours that a child is being transported shall be included in the calculation of the hours of operation.

2. A child day care center that remains open for more than 12 1/2 hours in a continuous 7-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time child day care center.

3. A child day care center that remains open after 9 p.m. shall meet the appropriate regulations established for nighttime care.

*Child Safety Alarm*—an ignition-based alarm system that voice prompts the driver to inspect the vehicle for children before exiting the vehicle.

*Clock Hour*—60 minutes.

*Complaint*—an allegation that an owner, provider, or staff person is violating any provision of these standards or laws, or engaging in conduct, either by omission or commission, that negatively affects the health, safety, or well-being of any child for which the provider has responsibility.

*Criminal Background Check (CBC)*—a fingerprint-based personal Louisiana criminal history information record for owners, applicants for employment, staff, volunteers, visitors, and independent contractors who perform services at an early learning center when children are present, obtained from the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 17:407.42, prior to March 1, 2018. A CBC is satisfactory if it shows no arrests for any crime included in R.S. 15:587.1(C), or if an arrest is shown on the CBC for any excludable offense, the CBC or documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction. A plea of guilty or *nolo contendere* shall be deemed to be a conviction. Valid CBC affidavits and CBC annual letters that were issued prior to March 1, 2018 for the 2017-2018 school year shall be accepted as documentation of a satisfactory CBC.

*DAL*—Division of Administrative Law.

*DCFS*—Department of Children and Family Services.

*DHH*—Department of Health and Hospitals.

*Day Care Center*—see *child day care center*.

*Department*—Department of Education.

*Determination of Eligibility*—determination by the department of a person's eligibility for child care purposes based on the results of a child care criminal background check (CCCBC).

*Direct Supervision*—see *supervision*.

*Director*—the staff who is responsible for the day-to-day operation, management, and administration of the center. For the purpose of these regulations, the term "director" means *director* or *director designee*, if applicable.

*Director Designee*—the individual appointed by the director to act in lieu of the director when the director is not an on-site staff person at the licensed location. This individual shall meet director qualifications.

*Discipline*—see *behavior management*.

*Disqualification Period*—the prescriptive period during which a center shall not be qualified to submit an application for licensure after its license has been revoked, renewal has been refused or its license has been surrendered to avoid adverse action due to failure to comply with licensing laws, regulations or minimum standards.

*Early Learning Center*—any child day care center, early head start center, head start center, or stand-alone prekindergarten program that is not attached to a school.

*Early Learning Staff*—see *staff*.

*Employee*—all full or part time paid staff who perform services for the center and have direct or indirect contact with children at the center.

*Extra-Curricular Personnel*—see *independent contractors*.

*Federal Food and Nutrition Programs*—federal nutrition reimbursement programs funded by the U.S. Department of Agriculture through the Louisiana Department of Education, Division of Nutrition Support.

*Foster Grandparents*—a program organized by an agency that recruits and trains seniors to provide one-on-one attention to a child or to assist a group of children.

*Full-Time*—physical presence at the center Monday through Friday for at least 32 hours.

*Group Size*—the number of children assigned to a teacher or team of teachers occupying an individual classroom or well-defined space within a large room.

*Head Start and Early Head Start Programs*—federally-funded early childhood care and education programs that promote and teach school readiness to children ages birth to five from low-income families and provide services in the areas of education, social services for families, nutrition, family engagement, health and mental health, as well as providing the physical plant and instructional staff members for such purposes.

*Independent Contractors*—individuals who are not employees of the center, but who render professional, therapeutic, or enrichment services within an early learning center. Independent contractors include, but are not limited to, dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, nutritionists, early interventionists, nurses and other licensed health care professionals, local school district staff, Department of Education staff, contracted bus drivers, cafeteria and maintenance personnel, electricians, plumbers and photographers, and other outside contractors.

*Infant*—a child who has not yet reached his/her first birthday.

*License*—any license issued by the Louisiana Department of Education, Licensing Division to operate an early learning center.

*License Type*—the type of license applied for or held by an early learning center, which include type I, type II, and type III licenses.

*Licensing Division*—Louisiana Department of Education, Licensing Division.

*Mandated Reporter*—professionals who may work with children in the course of their professional duties and who consequently are required to report all suspected cases of child abuse and neglect. This includes any person who provides training or supervision of a child, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, any other child care institution staff member, licensed or unlicensed day care provider, any individual who provides such services to a child, or any other person made a mandatory reporter under *Children's Code* article 603 or other applicable law.

*Medication*—all internally and externally administered drugs, whether over-the-counter or prescribed.

*Monitor*—see *bus monitors* or *monitor of a provisionally employed staff member*.

*Monitor of a Provisionally Employed Staff Member*—an adult staff member for whom a center has a CCCBC-based determination of eligibility for child care purposes (or prior to October 1, 2018, a satisfactory CBC), who is designated by the center to monitor a specific person or persons who are provisionally employed staff members at the center.

*Nighttime Care*—care provided after 9 p.m. and prior to 5 a.m. in which no individual child remains for more than 24 hours in one continuous stay.

*Non-Vehicular Excursion*—any activity that takes place outside of the licensed area that is within a safe, reasonable, walking distance, and that does not require transportation in a motor vehicle. This does not include walking with children to and from schools.

*Notice*—written notice to an early learning center is considered given:

1. when it is sent by email or fax to the email address or fax number furnished by the center on the center's current application for licensure or renewal;
2. when it is hand-delivered to a staff member at the center; or
3. on the fifth calendar day after it was mailed to the mailing address furnished by the center on the center's current application for licensure or renewal.

*Office of Early Childhood*—Louisiana Department of Education, Office of Early Childhood.

*Office of Public Health*—Louisiana Department of Health and Hospitals, Office of Public Health.

*Owner* or *Operator*—the individual who exercises ownership or control over an early learning center, whether such ownership or control is direct or indirect.

*Parent*—parent or custodian.

*Posted*—prominently displayed in a conspicuous location in an area accessible to and regularly used by parents.

*Prekindergarten Programs*—

1. per R.S. 17:24.8(A), the youngest age at which a child may enter prekindergarten at a local public school is four years on or before September 30 of the calendar year in which the school year begins;
2. per R.S. 17:24.8(B), the youngest age at which a child may enter prekindergarten at a BESE-approved nonpublic school is 3 years old by September 30 of the year in which the child enrolls in prekindergarten.

*Premises*—buildings and land upon which buildings sit, including but not limited to play yards and parking areas.

*Providers*—all owners, operators and directors of a center.

*Provisionally Employed Staff Member*—a person for whom the center has requested a CCCBC-based determination of eligibility for child care purposes, and for whom the department has received a satisfactory fingerprint-based Louisiana or federal criminal history information record, who is temporarily employed and monitored by the center pending the department's receipt of the other CCCBC results and determination of the person's eligibility for child care purposes.

*Related* or *Relative*—natural or adopted child or grandchild of the caregiver or a child in legal custody of caregiver.

*Rest Time*—a daily period for children over age 12 months during which children are placed on mats or cots or in cribs as age appropriate.

*Right to Review (RTR)*—a certified copy of an individual's personal criminal history information record obtained by the individual from the Louisiana Bureau of Criminal Identification and Information pursuant to R.S. 15:588.

*Staff*—all full-time or part-time, paid or non-paid individuals that perform services for the early learning center and have direct or indirect contact with children at the center. Staff includes the director, child care staff, and any other employees at the center such as the cook, housekeeper, driver, substitutes, secretary, bookkeeper, and foster grandparents, but does not include extra-curricular personnel, therapeutic professionals and other independent contractors.

*Staff-in-Charge*—the on-site staff member appointed by the director as responsible for supervising the operation of the center during the temporary absence of the director or during nighttime hours.

*State Central Registry*—repository within the Louisiana Department of Children and Family Services (DCFS) that identifies any individual reported to have a justified (valid) finding of abuse or neglect of a child or children by DCFS.

*State Superintendent*—Louisiana state superintendent of education.

*Student Trainee*—a student who is at least age 16 and present in the center as an educational course requirement. A student trainee shall not be left alone with children and shall not counted in the child to staff ratio.

*Supervision*—the function of observing, overseeing, and guiding a child or group of children, that includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed. Supervision requires physical presence with visual contact, accountability for care of the children, knowledge of activity requirements, and knowledge of the abilities and needs of the children.

*Temporary Absence*—absence for running errands, attending conferences, etc.

*Therapeutic Professionals*—independent contractors who provide therapeutic services in an early learning center, including but not limited to speech therapists, nutritionists, early interventionists, nurses and other licensed health care professionals who are employed by a local school district or the Department of Health and Hospitals (DHH) or who are working pursuant to an EarlySteps contract with DHH, to provide therapeutic services in an early learning center to a child with a disability that has an active individual education plan (IEP) or individual family service plan (IFSP). Therapeutic professionals are not required to be under the supervision of center staff when providing such services.

*Time-Out*—technique for temporarily separating a child when inappropriate behavior has occurred, and is intended to give a child time to calm down, thereby discouraging such behavior.

*Transportation*—the arranging or providing of transportation of children, whether center-provided, parent-provided, or contract-provided, for any reason, including daily transportation, transportation for field trips, or transportation for any other activity that takes place away from the licensed center.

*Unlicensed Operation*—the operation of any early learning center at any location, without a valid current license issued by the Louisiana Department of Education, Licensing Division.

*Visitor*—anyone who enters an early learning center other than the parent of an enrolled child, center staff, volunteers, extracurricular personnel, therapeutic professionals and other independent contractors, and in the case of a church or school, any other routine employees, including but not limited to a pastor, principal or teacher.

*Volunteer*—a full or part-time non-paid staff member.

*Water Activity*—a water-related activity in which children are in, on, near and accessible to, or immersed in, a body of water, including but not limited to a swimming pool, wading pool, water park, river, lake, or beach.

*Water Play Activity*—water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip-and-slides and water tables.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:638 (April 2017), LR 44:247 (February 2018), effective March 1, 2018.

## Chapter 3. Licensure

### §305. Operating Without a License; Registry; Penalties

A. Whoever operates any early learning center without a valid license shall be fined by the Licensing Division not less than \$1,000 per day for each day of such offense.

B. If an early learning center is operating without a valid license, the Licensing Division shall file suit for injunctive relief in the district court in the parish in which the center is located to enjoin the owner or operator from continuing the violation.

C. Upon receipt of a court order enjoining an individual from operating an early learning center without a valid, current early learning center license, the department shall notify local law enforcement, the local superintendent, and the early childhood community network lead agency, if different, in the parish in which the unlicensed care was provided, and in the parish in which the individual resides, if known and different from the parish in which the unlicensed care was provided, of the existence of such a court order.

D. The department shall publish on its website in a statewide registry the names of individuals that have an existing court order prohibiting them from operating an early learning center without a current, valid early learning center license and that do not currently operate a center with a current valid license. The registry shall at a minimum include the name of the individual, the name of the center under which the unlicensed care was provided, and the parish in which the unlicensed care was provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.37.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015).

### §307. Types of Licenses

A. A “type I license” is the type of license issued to an early learning center that is owned or operated by a church or religious organization that is qualified as a tax exempt organization under §501(c) of the *Internal Revenue Code* and that receives no state or federal funds directly or indirectly from any source.

1. Grandfathering Clause. A “type I license” is also the type of license issued to any early learning center holding a “class B” license on October 1, 2014, provided the center receives no state or federal funds directly or indirectly from any source. “Class B” licenses held by other than tax exempt church or religious organizations on October 1, 2014 shall be grandfathered in as type I centers for the life of the existing license. However, if a type I license held by other than a tax exempt church or religious organization expires, is revoked, or is terminated for any reason, or if a new license is required for any reason, including but not limited to a change in location or ownership, the center shall not be eligible for a new type I license and shall apply for either a type II or type III license.

2. No early learning center holding a type I license shall directly or indirectly receive any state or federal funds from any source.

3. If an early learning center holding a type I license directly or indirectly receives any state or federal funds, its license is immediately revoked.

B. A “type II license” is the type of license issued to an early learning center that either receives no state or federal funds directly or indirectly from any source or whose only source of state or federal funds is from U.S. Department of Agriculture’s food and nutrition programs, hereinafter referred to in this bulletin as “federal food and nutrition programs.”

1. No early learning center holding a type II license shall directly or indirectly receive any state or federal funds from any source, other than those funds received solely for federal food and nutrition programs.

2. If an early learning center holding a type II license directly or indirectly receives any state or federal funds from any source, other than those received solely for food and nutrition programs, its license is immediately revoked.

C. A “type III license” is the type of license issued to an early learning center that directly or indirectly receives state or federal funds from any source other than the federal food and nutrition programs.

1. Type III early learning centers shall meet the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness as determined by BESE.

D. Nothing in this Section shall prevent an early learning center otherwise qualified for a type I license to voluntarily seek a type II or type III license, or an early learning center otherwise qualified for a type II license to voluntarily seek a type III license, provided that such early learning center meets the standards set forth for such license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015.

### **§309. Term of License**

A. The Licensing Division is authorized to determine the period for which a license shall be valid. A license is valid for the period for which it is issued unless it is revoked or suspended by the Licensing Division for non-compliance with the licensing laws, regulations or minimum standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015.

### **§311. Posting of License**

A. Each early learning center shall display its current license in a prominent place at the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

### **§315. Inspections**

A. The Licensing Division, through its duly authorized agents, shall inspect at regular intervals not to exceed one year, and as deemed necessary by the Licensing Division and without previous notice, all early learning centers subject to the provisions of this bulletin.

B. Whenever the Licensing Division is advised or has reason to believe that any person, agency or organization is operating a non-exempt early learning center without a license, the Licensing Division shall initiate an investigation to ascertain the facts.

C. Whenever the Licensing Division is advised or has reason to believe that any person, agency or organization is operating in violation of licensing laws, regulations or minimum standards, the Licensing Division shall complete a complaint investigation. All reports of mistreatment of children coming to the attention of the Licensing Division shall be referred to the appropriate agencies, and law enforcement personnel if applicable.

D. The Licensing Division may apply for an administrative search warrant to obtain entry to an early learning center, if necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

### **§317. Transitional Provisions**

A. Effective immediately, any early learning center possessing a class B license that receives no state or federal funds directly or indirectly from any source is deemed to be a type I center and its current license remains valid for the term stated on the face of the license. A new license shall be issued upon renewal of the existing license.

B. Effective immediately, any early learning center possessing a class A or class B license that either receives no state or federal funds directly or indirectly from any source or whose only source of state or federal funds is from federal food and nutrition programs is deemed a type II center and its current license remains valid for the term stated on the face of the license. A new license shall be issued upon renewal of the existing license.

C. Effective immediately, any early learning center possessing a class A or class B license that receives state or federal funds directly or indirectly from any source other than the federal food and nutrition programs is deemed a type III center and its current license remains valid for the term stated on the face of the license. A new license shall be issued upon renewal of the existing license.

D. Nothing in this Section shall prevent an early learning center otherwise qualified for a type I license from voluntarily seeking a type II or type III license, or an early learning center otherwise qualified for a type II license from voluntarily seeking a type III license, provided that such center meets the standards set forth for such licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36 and R.S. 17:407.38(c).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

### **§319. Waivers**

A. The state superintendent, pursuant to authority delegated by BESE, may, in specific instances, waive compliance with a minimum standard or regulation if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of staff and children are not imperiled. If it is determined that the center

or agency is meeting or exceeding the intent of the standard or regulation, the standard or regulation may be deemed to be met.

B. Minimum licensing standards shall not be waived unless the state superintendent determines, upon clear and convincing evidence, that the demonstrated economic impact is sufficiently great to make compliance impractical for the center despite diligent efforts, and alternative means have been put in place that ensure the health, safety, and well-being of children and staff.

C. An application for a waiver shall be submitted in writing to the Licensing Division using the request for waiver form.

D. Any waiver is issued at the discretion of the state superintendent and may be revoked by the state superintendent at any time, either upon violation of any condition attached to it or upon the determination of the state superintendent that continuance of the waiver is no longer in the best interest of children in care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015.

## **Chapter 7. Licensing Process and Procedures**

### **§701. Initial Application Process**

A. Forms. Applications for licensure of new early learning centers shall be made to the Licensing Division on forms furnished by the Licensing Division. See the Department of Education's website for current forms and for directions as to how and where applications for licensure may be submitted.

B. Each center shall provide a current email address to the Licensing Division on its initial application for licensure. The center shall maintain a current email address and notify the Licensing Division immediately upon a change in such email address by submitting a change of email address form to amend the existing licensing application. All communication from the Licensing Division shall be sent via email to the most recent email address provided to the Licensing Division on the center's current application for licensure or renewal.

C. Initial Licensing Packet. After the center's location has been established, a completed initial licensing packet shall be submitted to the Licensing Division.

#### **D. Review of Licensing Packet**

1. If a submitted application is incomplete, the Licensing Division shall notify the applicant of the missing information.

a. The applicant shall have 21 calendar days from receipt of notification to submit the additional information.

b. If the Licensing Division does not receive the additional information within 21 calendar days of notification, the application shall be closed and the application fee shall be forfeited.

c. Once an application has been closed, an applicant still interested in obtaining a license must submit a new application and application fee.

2. If the application is complete, the Licensing Division will notify the applicant and will request the Office of State Fire Marshal, city fire (if applicable), Office of Public Health, and Office of Early Childhood to make an inspection of the center, as per their standards. However, it is the applicant's responsibility to obtain these inspections and approvals.

a. Upon receipt of notification that an application is complete, the applicant has 45 calendar days in which to coordinate an on-site inspection of the center by the Licensing Division.

b. If the applicant fails to coordinate the inspection within 45 calendar days, the application shall be closed and the application fee shall be forfeited.

c. Once an application has been closed, an applicant still interested in obtaining a license must submit a new application and application fee.

E. Initial Licensure. A license shall be issued on a completed initial application when the following items have been met and written verification has been received by the Licensing Division:

1. Office of State Fire Marshal approval;

2. Office of Public Health approval;

3. city fire approval, if applicable;

4. zoning approval, if applicable;

5. Office of Early Childhood approval, if type III center;

6. full licensure fee paid;

7. licensure inspection verifying compliance with all minimum standards; and

8. CCCBC-based determination of eligibility for child care purposes from the department for all owners, operators, and staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015), LR 44:248 (February 2018), effective March 1, 2018.

### **§703. Initial Inspection Process**

A. An initial licensing inspection, including a measurement of the indoor and outdoor enclosed space, shall be conducted at the center to assure compliance with all licensing laws, regulations and minimum standards.

1. If the center is in operation in violation of the law, the initial licensing inspection shall not be conducted, the application shall be denied and the Licensing Division shall pursue appropriate legal remedies.

2. If the initial inspection indicates that an early learning center is in compliance with all licensing laws, regulations and minimum standards, the Licensing Division may issue a license.

3. If an initial inspection indicates that an early learning center is not in compliance with all minimum standards, with the exception of the standards listed in Paragraph A.4 of this Section, the Licensing Division may deny the application.

4. If the initial inspection indicates that a center is in compliance with all but the following standards, the center will be allowed 90 calendar days from receipt of the initial completed application to submit documentation of compliance with the following, and the application may be denied if the information is not received within the 90 calendar days:

- a. Office of State Fire Marshal approval;
- b. city fire approval, if applicable;
- c. Office of Public Health approval;
- d. Office of Early Childhood approval, if type III center; and
- e. documentation of a CCCBC-based determination of eligibility for child care purposes from the department.

B. Once it has been determined that a center is in compliance with all licensing laws, regulations and minimum standards, the Licensing Division shall notify the center of its total licensure fee based on its capacity.

1. The \$25 application fee shall be applied towards the total licensure fee.

2. The total licensure fee shall be due prior to the issuance of a license, and no later than 90 calendar days from receipt of the initial completed application packet.

3. Pursuant to R.S. 17:407.39(G), the annual licensure fee shall not apply to type I centers owned or operated by churches or religious organizations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:248 (February 2018), effective March 1, 2018.

#### **§705. Access**

A. An early learning center shall allow the Licensing Division staff access to the center, the children, all files, records, and recordings, upon request at any time during any hours of operation or any time a child is present.

B. Licensing Division staff shall be allowed to interview any center staff person deemed necessary by the Licensing Division.

C. Licensing Division staff shall be admitted into a center immediately and without delay and shall be given free access to all areas of a center, including its grounds.

D. If any portion of a center is set aside for private use by an owner of the center, Licensing Division staff shall be permitted to verify that no children are present in that portion of the center and that such private areas are inaccessible to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 44:248 (February 2018), effective March 1, 2018.

#### **§709. Validity of Licenses**

A. A license shall apply only to the location stated on the license and shall not transfer from one location to another or from one owner to another.

B. If the location or owner of an early learning center changes, the license becomes null and void.

C. When a business is sold, discontinued, the operation has moved to a new location, or the license has been revoked, the existing license immediately becomes null and void and the licensee shall surrender the existing license to the Licensing Division.

D. A new application shall not be processed if an application or license is currently on file with the Licensing Division for the same location, with the exception of a change of ownership application

E. Two licenses shall not be issued simultaneously for the same physical address.

F. All early learning care and education provided at a physical address shall be included under one license.

G. If an early learning center operates summer and/or holiday camps at the location, such care shall be included under a single license for the location.

H. All new construction or renovation of a center requires approval from the Office of State Fire Marshal, the Office of Public Health and the Licensing Division prior to occupying the new or renovated space.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(C) and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016).

#### **§711. Renewal Applications**

A. A license must be renewed by the last day of the month in which the current license expires.

B. An application for renewal of a license shall be submitted to the Licensing Division on a form furnished by the Licensing Division.

C. Each center is solely responsible for obtaining the form to apply for renewal of a license and timely applying for renewal. Notice of time for renewal shall not be sent by the Licensing Division.

D. Renewal applications should be submitted prior to the first day of the month in which the current license expires.

E. If a complete renewal application, including the total annual licensure fee and all required documentation, is not received by or postmarked by the last day of the month in which the license expires, the license expires and shall not be renewed.

F. If a license expires, the early learning center shall cease operation by close of business on the expiration date stated on the license. An application for a new license shall be required if the owner desires to resume operations at the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40 and R.S. 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015.

### **§713. Renewal and Other Inspection Procedures**

A. Annual inspections and current approvals by the Office of Public Health, Office of State Fire Marshal, city fire (if applicable), Office of Early Childhood (if type III center) and the Licensing Division shall be required before the expiration of an existing license.

1. Required approvals from these agencies may be extended by such authorized agencies through written communication with the center or the Licensing Division.

2. A renewal inspection by the Licensing Division is similar to the initial licensing inspection.

a. Documentation of the previous 12 months of activities at a center shall be available for review during renewal and other inspections.

B. After initial licensure, inspections shall be conducted as deemed necessary by the Licensing Division at regular intervals not to exceed one year, and without notice to the early learning center.

C. The director shall have an opportunity to review inspection deficiencies (if any) in consultation with Licensing Division staff.

1. If the director is not present at the center or is unable or unwilling to review the inspection deficiencies, the Licensing Division staff shall review with any staff at the center.

2. If Licensing Division staff is unable to conduct such a review due to the absence or refusal of staff to participate, the licensing staff shall leave a copy of the deficiencies at the center, and this shall constitute notice of the deficiencies to the center and its owners and director.

#### **D. Licensing Deficiency Review**

##### **1. Managerial Review**

a. A center may submit a written request to the Licensing Division, on a form provided by the Licensing Division, for a managerial review of the accuracy of a cited deficiency or the accuracy of a statement within a cited deficiency. The written request for a managerial review must be received by the Licensing Division within 10 calendar days of the center's receipt of the cited deficiency.

b. Management will review and respond in writing to the written request within 10 calendar days of receipt of the request.

##### **2. Second Request for Review**

a. If the cited deficiency is upheld in the managerial review, the provider may submit a written request for a second review of the deficiency within 10 calendar days of receipt of the written response the managerial review.

b. All information to be considered in the second review must be submitted in writing.

c. A licensing review panel will review the cited deficiency and provide a written response to the center within 10 calendar days of receipt of second request for review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 44:249 (February 2018), effective March 1, 2018.

## **Chapter 9. Changes Requiring a New License**

### **§901. Change in Location**

A. Change in Location. When a center changes location, it is considered a new operation, and a new application and fee for licensure must be submitted and a new license obtained, prior to opening at the new location.

#### **B. Temporary Change in Location**

1. If a currently licensed center closes for reasons, including but not limited to fire on the premises or structural damages to the center, and the children are relocated to a temporary location until repairs have been made, it is considered a new operation and a new license is required prior to opening at the new temporary location.

2. The license at the existing location shall not transfer to the temporary location. The existing license shall be closed on the last day care was provided at that location.

3. Any change of location, however temporary, renders the license for the existing center null and void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

### **§905. Change in License Type**

A. Any early learning center holding a type III license that intends to change its license type at any time during the following calendar year shall notify the Licensing Division of its intent to change license type no later than December first of the preceding year.

B. To change license type, an early learning center shall submit a written request to change its license type and a \$25 change fee to the Licensing Division.

C. Upon receipt of the written request and fee, and verification of substantial compliance with the applicable licensing regulations, the Licensing Division shall issue a replacement license of the new type to the center and the center shall surrender its existing license to the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36 and R.S. 17:407.38-39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016).

#### **§907. Notification of Temporary or Permanent Closure**

A. A center shall notify the Licensing Division in writing of a temporary closure (closure of more than 14 calendar days, but less than 30 calendar days) within one day of closure of the center.

B. The provider shall notify the Licensing Division in writing of a permanent closure of center (closure of more than 30 calendar days) within seven calendar days of closure of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

## **Chapter 11. Operating Violations and Incidents; Fines; Appeals**

#### **§1101. Non-Critical Operating Violations**

A. When non-critical violations are identified during an on-site inspection, the Licensing Division may allow the center an opportunity to immediately remedy the violation or deficiency, if the Licensing Division determines that allowing such remedy does not endanger the health, safety, or well-being of any child. The Licensing Division may consider the remedy as acceptable corrective action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

#### **§1103. Critical Incidents and Required Notifications**

A. An early learning center shall make immediate notification to emergency personnel, law enforcement as applicable, and other appropriate agencies for the following types of critical incidents involving children in care:

1. death;
2. serious injury or illness that required medical attention;
3. reportable infectious diseases and conditions listed in LAC 51.II.105; and
4. any other significant event relating to the health, safety, or well-being of any child, including but not limited to a lost child, an emergency situation, fire or other structural damage, or closure of the center.

B. The parent shall be contacted immediately following any immediate notifications made under Subsection A.

C. The Licensing Division and other appropriate agencies shall be notified via email within 24 hours of the incident.

D. The Licensing Division shall be notified by written report within 24 hours of the incident or the next business day. This written notification shall be made on the Licensing Division's critical incidents report form and shall contain all information requested on the form.

E. Reporting deadlines may be adjusted in the event of a natural catastrophe and/or disaster, as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015.

#### **§1105. Identified Violations and Fines**

A. For violations related to the following licensing standards, when such violation does not pose an imminent threat to the health, safety, rights, or welfare of a child, the Licensing Division may issue a written warning in lieu of revoking or refusing to renew the license:

1. supervision (§1713);
2. CCCBC-based determination of eligibility for child care purposes (§1807);
3. child to staff ratios (§1711);
4. motor vehicle passenger checks (§2107); and
5. failure to report critical incidents (§1103).

B. Where such a violation does not result in the revocation of or refusal to renew a license, the Licensing Division shall issue a written warning/notice of violation of the standards listed in Subsection A that shall include:

1. a corrective action plan (CAP) that outlines the required actions which shall be implemented or completed immediately; and
2. notice that failure to timely take the required action may result in the assessment of a civil fine or the revocation of or refusal to renew the license, or both.

C. Second Violation or Deficiency. If the CAP is not timely implemented or if a second violation related to the same standard occurs within a 24-month period, and does not result in the revocation of or refusal to renew a license, the Licensing Division shall issue a written notice of violation that:

1. may include the requirement to take additional corrective action; and
2. may include the assessment of a civil fine of up to \$250 per day for each day of the violation, not to exceed \$2,000 within a consecutive 12-month period; and

a. the factors to be used in determining the type of sanction imposed include the severity of the risk, actual harm and mitigating circumstances, failure to implement a corrective action plan, history of noncompliance, continuing and repeat deficiencies, good-faith effort to comply and any other relevant factors;

3. shall include notice of the right to request departmental reconsideration if a civil fine/sanction is assessed; and that failure to request departmental consideration shall result in the loss of any further right to appeal the civil fine/sanction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:249 (February 2018), effective March 1, 2018.

#### **§1107. Departmental Reconsideration of Assessment of Fine**

A. A request for departmental reconsideration of an assessment of fine for a violation of the licensing standards listed in §1105.A must be received by the Licensing Division within 10 calendar days of the center's receipt of a written notice of assessment of fine.

B. If a request for departmental reconsideration is not timely received by the Licensing Division, the center shall not have any further right to appeal the assessment of fine.

C. A request for departmental reconsideration shall:

1. include a copy of the original assessment of fine;
2. provide any new information, if applicable; and
3. provide specific reasons as to why the Licensing Division should reconsider the assessment of fine.

D. The Licensing Division shall provide notice to a center in writing of its decision after reconsidering the assessment of fine.

E. If the Licensing Division determines that the assessment of fine is justified, the Licensing Division shall provide the center with written notice of the decision that includes notice of the center's right to request an appeal to the Division of Administrative Law (DAL) within 15 calendar days of receipt of said notice and the procedures for requesting an appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015.

#### **§1109. Administrative Appeal of Assessment of Fine**

A. A written request for an appeal to the Division of Administrative Law (DAL) of a civil fine for a violation of the licensing standards listed in §1105.A must be received by the Licensing Division within 15 calendar days of the center's receipt of notice of the Licensing Division's decision upon reconsideration.

B. The written request for an appeal to the DAL shall include:

1. a copy of the original assessment of fine;
2. a copy of the decision from the Licensing Division upon reconsideration; and
3. the specific reasons the center believes the decision of the Licensing Division was reached in error.

C. The Licensing Division shall notify the DAL of an appeal request within 10 calendar days of receipt of the request.

D. The DAL shall conduct a hearing in the matter in accordance with R.S. 17:407.46 and the Administrative Procedure Act found at R.S. 49:950 et seq.

E. The appeal shall be suspensive.

F. During the pendency of an appeal, the center may continue to receive funding for services provided to those eligible children as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015.

#### **§1111. Payment of Fines**

A. Fines for violations of licensing standards listed in §1105.A are due within 30 calendar days of receipt of written notice of assessment of fines, unless the center timely submits a request for departmental reconsideration.

B. If the Licensing Division notifies a center that its decision upon reconsideration is that the original decision is justified, the fine remains due within 30 calendar days of the original notice of assessment of fines or within 14 calendar days of notice of the decision upon reconsideration, whichever is later, unless the center timely submits a request for an administrative appeal to the Licensing Division.

C. If the department timely receives a request for an administrative appeal for an assessment of fines based on a violation of the licensing standards listed in §1105.A and said assessment is affirmed by the DAL, the fine shall be due and payable within 30 calendar days of receipt of notice of the decision by the DAL, unless the center timely seeks judicial review of the administrative decision.

D. If a center timely seeks judicial review of the administrative decision, and judicial review is denied or dismissed, the fines shall be due and payable within 30 calendar days of the denial or dismissal.

E. If a center does not timely pay a fine for a violation of the licensing standards listed in §1105.A:

1. its license may be immediately revoked;
2. the Licensing Division shall refer uncollected fines to the Office of the Attorney General for collection, and the organization owing the fine shall be assessed, and shall be required to pay, the additional collection fee assessed by the Office of the Attorney General;
3. interest shall begin to accrue on a fine at the current judicial rate on the day following the day the fine becomes due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015). Chapter 13. Denial, Revocation or Non-Renewal of License

**§1301. Reasons for Denial, Revocation or Refusal to Renew**

A. The following is an illustrative, but not exclusive, list of reasons that an application for licensure may be denied or a license may be revoked or renewal refused:

1. violation of any provision of R.S. 17:407.31 et seq.;
2. violation of any rules and regulations in this bulletin;
3. failure to meet any minimum standards in this bulletin;
4. failure to take steps or actions reasonably necessary to ensure the health and safety and well-being of children in care;
5. failure to timely comply with a corrective action plan approved by the Licensing Division;
6. failure to obtain approval of any agency whose approval is required for licensure;
7. failure to report a known or suspected incident of abuse or neglect to child welfare authorities;
8. denial of center access to Licensing Division staff or failure or refusal to cooperate with Licensing Division staff in the performance of official duties;
9. history of non-compliance with licensing laws, rules, or minimum standards;
10. nonpayment of licensure fee;
11. failure to submit application for renewal prior to the expiration of the license;
12. if the owner or director is not reputable;
13. if the owner, director, or a staff member is unsuited for the care of children in the center;
14. any instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, or physical or sexual abuse or neglect, if the owner is responsible or if the employee who is responsible remains in the employment of the center;
15. any act of fraud, such as the submission of false or altered documents or information;
16. the center is closed and there are no plans for immediate reopening and no means of verifying compliance with licensing laws, regulations and minimum standards;
17. the center knowingly continues to employ or allow to be present at the center or on the center premises, a person who is ineligible for child care purposes; and
18. the owner of a center is ineligible for child care purposes and does not immediately leave the center and center premises, or returns to the center or center premises at any time when children are present, or fails to divest ownership of the center or close the center within 30 calendar days of the owner's knowledge of his/her ineligibility for child care purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:249 (February 2018), effective March 1, 2018.

**§1303. Notice of Denial, Revocation or Refusal to Renew**

A. The Licensing Division shall provide written notice to a center of its reasons for the denial of an application for licensure or the revocation of or refusal to renew a license and of the right to appeal the decision to the Division of Administrative Law (DAL).

B. The denial, revocation or refusal to renew shall be effective when notice is given and the center shall surrender its existing license to the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 42:554 (April 2016).

**§1305. Posting of Notice of Revocation**

A. The Licensing Division shall prominently post notice of a revocation action at each public entrance of the center within one business day of such action.

B. Such notice of revocation shall remain posted and visible to parents of children at the center throughout the pendency of any appeals of the revocation.

C. The center shall not permit the destruction or removal of a notice of revocation action and shall ensure that the notice continues to be visible to any person entering the center throughout the pendency of any appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015.

**§1307. Appeal of Denial, Revocation or Refusal to Renew**

A. A center has 30 calendar days to request an appeal of the denial of its application for licensure and 15 calendar days to request an appeal of the revocation of or the refusal to renew its license.

B. The Licensing Division must receive a written request for an appeal within 30 calendar days of the center's receipt of notice of the denial of its application and within 15 calendar days of the center's receipt of notice of revocation of or refusal to renew its license.

C. A center may continue to operate during the appeals unless the Licensing Division determines that the health, safety or welfare of children in care imperatively requires immediate closure of the center and incorporates that finding in its notice of revocation.

1. If a center with a revoked license is continuing to operate during its appeals process, and the Licensing Division determines that the health, safety, or welfare of the children in care is at risk due to continuing violations of licensing standards and minimum requirements or the occurrence of a critical incident, the Licensing Division may require immediate closure of the center by providing written notice of required immediate closure that includes notice of the continuing violations of licensing standards and minimum requirements or the occurrence of a critical incident. There shall be no appeal of the required immediate closure, but the appeal of the revocation of the license shall continue. If the decision to revoke the center's license is not upheld in the pending appeal, the center may reopen upon receipt of notice of such a decision.

D. A request for an appeal submitted to the Licensing Division shall include:

1. a copy of the written reasons for denial, revocation or refusal to renew; and
2. written identification of specific areas of the decision believed to be erroneous and/or specific reasons the decision is believed to have been reached in error.

E. The Licensing Division shall notify the Division of Administrative Law (DAL) within 10 calendar of receipt of a timely request for an appeal of the denial of an application or the revocation of or refusal to renew a license.

F. The DAL shall hold a hearing no later than 30 calendar days after receipt of such notice, with an administrative ruling provided to the center no later than 15 calendar days from the date of the hearing for revocation or refusal to renew a license, or within 30 calendar days from the date of a hearing for the denial of a license.

G. If the DAL affirms the decision of the Licensing Division, or if the appeal is dismissed, the center shall terminate operations immediately.

H. The Licensing Division shall have the right to seek judicial review of any final decision or order rendered by the DAL in any appeal hearing arising under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 42:554 (April 2016), LR 44:249 (February 2018), effective March 1, 2018.

#### **§1309. Disqualification Period Following Revocation or Refusal to Renew**

A. If a license is revoked or renewal is refused due to failure to comply with licensing laws, regulations or minimum standards, or if a license is surrendered to avoid such adverse action, a center shall not be qualified to submit a new application for licensure for a minimum disqualification period of 24 months.

B. The minimum disqualification period shall begin on the later of:

1. the effective date of revocation, refusal to renew, or surrender to avoid adverse action; or
2. the day after all appeal rights have been exhausted.

C. Any unlicensed operation during the disqualification period shall interrupt running of the 24-month prescriptive period until the Licensing Division has verification that the unlicensed operations have ceased.

D. Any pending application by the same center shall be treated as an application for a new center for purposes of this Section and may be denied and subject to the disqualification period.

E. If the owner of a center has multiple licensed early learning centers and the license of one center is revoked, renewal is refused, or the license is surrendered to avoid adverse action, a capacity increase may be denied at any of the other existing licensed centers for the minimum disqualification period.

F. If the owner of a center has multiple licensed early learning centers, and a license is revoked, renewal is refused, or the license is surrendered to avoid adverse action for one center due to the actions on the part of the owner or a director who is responsible for more than one center, the licenses at all locations may be reviewed for possible revocation or refusal to renew.

G. If an applicant has a history of non-compliance with licensing laws, regulations or minimum standards, including but not limited operating without a license, or has been denied one or more previous applications for licensure, the Licensing Division may refuse to accept a subsequent application from the applicant for the minimum disqualification period after the effective date of the most recent adverse action.

H. An application for a new license for a center whose license has been revoked or renewal has been refused, or whose license has been surrendered to avoid adverse action, may be denied if the applicant is an affiliate of the center.

1. *Affiliate* for purposes of this Section means:

- a. each partner or member of a partnership or limited liability company;
- b. each officer, director and stockholder of a corporation;
- c. and with respect to a natural person:
  - i. that person and any individual related by blood, marriage or adoption within the third degree of kinship to that person;
  - ii. any partnership, together with any or all of its partners, in which that person is a partner; and
  - iii. any corporation in which that person is an officer, director or stockholder, or directly or indirectly holds a controlling interest;
- d. with respect to any of the above, any mandatary, agent or representative, or any other natural or juridical person acting at the direction or on behalf of the licensee or applicant; and
- e. the director of any such early learning center.

I. If a license is revoked due solely to the disapproval from any agency whose approval is required for licensure, or due solely to the center being closed and with no immediate plans for re-opening within 30 calendar days and with no means for the Licensing Division to verify compliance with minimum standards for licensure, the disqualification period may be partially or totally waived at the discretion of the Licensing Division.

1. The Licensing Division may accept a subsequent application for a license that shall be reviewed by the Licensing Division prior to a decision being made to grant a license.

2. The Licensing Division reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

J. If an application for a license has been denied or a license revoked, renewal refused or the license surrendered to avoid adverse action, any owner, officer, member, manager, director or administrator of such licensee shall be prohibited from owning, managing, directing or operating another licensed center for a disqualification period of not less than 24 months from the date of the final disposition of the most recent adverse action.

1. The lapse of 24 months shall not automatically restore eligibility to a person disqualified under this Subsection.

2. The Licensing Division, at its sole discretion, may determine if a longer period of disqualification is warranted based upon the facts of each case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44 and R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:628 (April 2015), effective July 1, 2015.

### **§1311. Licensure Process Following Disqualification Period**

A. Only centers and affiliates that have completed the 24-month disqualification period and/or other disqualification sanctions imposed by the Licensing Division, may apply for a new license in accordance with this bulletin.

B. Any application for a new license submitted after the minimum disqualification period shall be reviewed by the Licensing Division for any unresolved matters pertaining to the disqualification prior to making a determination to grant a license. The right to deny a subsequent application for licensure rests solely in the discretion of the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44 and R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:628 (April 2015), effective July 1, 2015.

## **Chapter 15. Minimum General Requirements and Standards**

### **§1507. Daily Attendance Records**

A. Children. A daily attendance record for children shall be maintained that shall:

1. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;

2. accurately reflect children on the center premises at any given time; and

3. be used to sign in and out if a child leaves and returns to the center during the day.

B. Staff and Owners. A daily attendance record for all staff members and owners shall be maintained that shall:

1. include the first and last name of the staff member or owner and arrival and departure times;

2. accurately reflect the staff members and owners on the center premises at any given time; and

3. be used to document staff members and owners who leave and return to the center during the day.

C. Independent Contractors. A daily attendance record for all extracurricular personnel, therapeutic professionals and other independent contractors, to include the first and last name, date of visit, arrival and departure times, and purpose of the visit.

D. Student Trainees. A daily attendance record for all student trainees to include the student's first and last name, school affiliation and date and arrival and departure times.

E. Visitors. A daily attendance record for all visitors to include the name, date of visit, arrival and departure times, and the purpose of the visit.

F. Daily attendance records shall be maintained for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015.

### **§1509. Policies**

A. An early learning center shall establish in writing and implement the following policies and minimum provisions of such policies:

1. child abuse and neglect policy:

a. as mandated reporters, all staff and owners shall report any suspected abuse or neglect of a child to the Louisiana Child Protection Statewide Hotline (855) 4LA-KIDS [(855) 452-5437];

b. an early learning center shall not delay the reporting of suspected abuse or neglect to the Child Protection Statewide Hotline in order to conduct an internal investigation to verify the abuse or neglect allegations; and

c. an early learning center shall not require staff to report suspected abuse or neglect to the center or management prior to reporting it to the Child Protection Statewide Hotline;

2. non-discrimination policy that prohibits discrimination on the basis of race, color, creed, sex, national origin, handicap, ancestry or whether a child is being breastfed;

3. admissions policy that includes admission criteria;
4. disclosure of information policy that provides notice to parents of the licensing authority of the Licensing Division and the availability of licensing surveys/inspections, regulations and information regarding early learning centers from the Department of Education's website;
5. complaint policy:
  - a. parents shall be advised of the licensing authority of the Licensing Division along with the current telephone number and email address. Parents shall also be advised that they may call or write the Licensing Division should they have significant, unresolved licensing complaints;
6. parental access policy:
  - a. parents shall be allowed to visit the center anytime during its regular hours of operation and when children are present;
7. parental involvement policy:
  - a. parents shall be offered a minimum of two opportunities for involvement each year, which may include but are not limited to, an open house, parent education session, parent and staff conference, family pot luck dinner, holiday party or parent or grandparent's day;
8. behavior management policy:
  - a. each center shall develop and implement a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center;
  - b. the behavior management policy shall prohibit children from being subject to any of the following:
    - i. physical or corporal punishment which includes but is not limited to yelling, slapping, spanking, yanking, shaking, pinching, exposure to extreme temperatures or other measures producing physical pain, putting anything in the mouth of a child, requiring a child to exercise, or placing a child in an uncomfortable position;
    - ii. verbal abuse, which includes but is not limited to using offensive or profane language, telling a child to "shut up", or making derogatory remarks about children or family members of children in the presence of children;
    - iii. the threat of a prohibited action even if there is no intent to follow through with the threat;
    - iv. being disciplined by another child;
    - v. being bullied by another child;
    - vi. being deprived of food or beverages;
    - vii. being restrained by devices such as high chairs or feeding tables for disciplinary purposes; and
    - viii. having active play time withheld for disciplinary purposes, except timeout may be used during active play time for an infraction incurred during the playtime;
  - c. time out:
    - i. time out shall not be used for children under age two;
    - ii. a time out shall take place within sight of staff;
    - iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age;
    - iv. for children over age six, a time out may be extended beyond one minute per year of age, if a signed and dated statement, including a maximum time limit, from the parent granting such permission, is on file at the center;
9. electronic devices policy that provides that all activities involving electronic devices, including but not limited to television, movies, games, videos, computers and hand held electronic devices, shall adhere to the following limitations:
  - a. electronic device activities for children under age two are prohibited; and
  - b. time allowed for electronic device activities for children ages two and above shall not exceed two hours per day;
10. computer practices policy that requires computers that allow internet access by children to be equipped with monitoring or filtering software that limits access by children to inappropriate websites, e-mail, and instant messaging;
11. programs, movies and video games policy:
  - a. programs, movies, and video games with violent or adult content, including but not limited to soap operas, television news, and sports programs aimed at audiences other than children, shall not be permitted in the presence of children;
  - b. all television, video, DVD, or other programming shall be suitable for the youngest child present;
  - c. "PG" programming or its television equivalent shall not be shown to children under age five;
  - d. "PG" programming shall only be viewed by children age five and above and shall require written parental authorization;
  - e. any programming with a rating more restrictive than "PG" is prohibited;
  - f. all video games shall be suitable for the youngest child with access to the games:
    - i. "E10+" rated games shall be permitted for children ages 10 years and older;
    - ii. "T" and "M" rated games are prohibited.
12. monitoring policy for provisionally employed staff members:

- a. each center shall develop and implement a written policy describing the monitoring procedures that shall be used at the center when staff members are employed on a provisional basis due to an incomplete CCCBC-based determination of eligibility for child care purposes;
- b. the monitoring policy shall include all requirements for the monitoring of provisionally employed staff members set forth in §1811.D;
- c. the center shall post a copy of the policy in the center in a place visible to all parents and staff;
- d. the center shall provide copies of the written policy to each parent/legal custodian of enrolled children, center staff member and provisionally employed staff member, and the center shall obtain signed documentation from each that a copy of the policy has been received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, amended LR 44:250 (February 2018), effective March 1, 2018.

**§1511. Procedures**

- A. An early learning center shall establish in writing and implement procedures for:
  - 1. physical activity:
    - a. children under age two shall be provided time and space for age appropriate physical activity for a minimum of 60 minutes per day;
    - b. children age two and older shall be provided a minimum of 60 minutes of physical activity per day that includes a combination of both teacher led and free play;
  - 2. sleep/rest:
    - a. infants shall be allowed to sleep according to their individual schedules;
    - b. children under age four shall have daily rest time of at least 75 minutes in programs operating more than 5 hours per day;
    - c. children ages four and older shall be offered the opportunity for quiet time;
  - 3. receiving and releasing a child from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015).

## **Chapter 17. Minimum Staffing Requirements and Standards**

**§1707. Required Staff**

- A. Director or Director Designee. Each center shall have a qualified director or qualified director designee.
  - 1. The director or director designee shall be an on-site, full-time staff person at the center during the daytime hours of operation (prior to 9 p.m.).
  - 2. The director or director designee shall be responsible for planning, managing, and controlling the center’s daily activities, as well as responding to parental concerns and ensuring that minimum licensing requirements are met.
- B. Staff-in-Charge. When the director or director designee is not on the premises due to a temporary absence or during nighttime care hours, there shall be an individual appointed as staff-in-charge.
  - 1. The staff-in-charge shall be at least age 21.
  - 2. The staff-in-charge shall have the authority to respond to emergencies, inspections, parental concerns, and have access to all required information.
- C. More than 42 Children in Care. When the number of children present at an early learning center exceeds 42, the duties of the director or director designee shall consist only of performing administrative duties or there shall be an individual present whose job duties consist solely of administrative duties and of ensuring that staff members working with children do not leave their classrooms to handle administrative duties.
- D. Staff
  - 1. Staff shall be age 18 or older.
  - 2. A person age 17 may be included in the child-to-staff ratio if the person works under the direct supervision of an adult staff member.
  - 3. In type I centers only, a person age 16 may be included in the child-to-staff ratios if the person works under the direct supervision of an adult staff member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 41:2107 (October 2015).

**§1709. Director Qualifications**

- A. The director/director designee shall be at least 21 years of age.
- B. The director/director designee shall have documentation of at least one of the following upon date of hire as director or director designee:
  - 1. a bachelor's degree from an accredited college or university with at least 12 credit hours of child development or early childhood education or elementary education or a related field, and one year of experience in a licensed early learning center or comparable setting, subject to approval by the Licensing Division;

2. an associate of arts degree in child development or a closely related area, and one year of experience in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division;

3. a national administrator credential and one year experience in a licensed early learning center, or comparable setting, plus 6 credit hours in child care, child development or early childhood or 90 clock hours of training in child care, child development or early childhood, subject to approval by the Licensing Division;

4. a child development associate credential (CDA) and one year of experience in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division;

5. a diploma from a post-secondary technical early childhood education training program approved by the Board of Regents or correspondence course approved by the Licensing Division and one year of experience in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division; or

6. three years of experience as a director or staff in a licensed early learning center, or comparable setting, subject to approval by the Licensing Division; plus 6 credit hours in child care, child development or early childhood education, or 90 clock hours of training in child care, child care development or early childhood approved by the licensing division. Up to 3 credit hours or 45 clock hours may be in management/administration education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 44:250 (February 2018), effective March 1, 2018.

**§1711. Child-to-Staff Minimum Ratios**

A. Child to staff ratios are established to ensure the safety of all children.

B. Minimum child to staff ratios shall be met at all times.

1. There shall be a minimum of two staff members present at an early learning center when more than one child is present.

2. Only those staff members directly providing care, supervision or guidance to children shall be counted in the child to staff ratios.

C. The Licensing Division form noting required child to staff ratios shall be posted in each room included in the center's licensed capacity.

D. Minimum Child to Staff Ratios for Type II and Type III Centers

Ages of Children	Ratio
Infants under 1 year	5:1
1 year	7:1
2 years	11:1
3 years	13:1
4 years	15:1
5 years	19:1
6 years and up	23:1

E. Future Minimum Child to Staff Ratios for Two-Year-Olds in Type II and Type III Centers. If the Louisiana Child Care Assistance Program subsidy rate reaches the 75 percentile of the 2012 Louisiana market rate survey rate for weekday care for toddlers by December 1, 2015, the child to staff ratios for two-year-olds shall decrease to 10:1 as of July 1, 2016.

F. Minimum Child to Staff Ratios for Type I Centers

Ages of Children	Ratio
Infants under 1 year	6:1
1 year	8:1
2 years	12:1
3 years	14:1
4 years	16:1
5 years	20:1
6 years and up	25:1

G. Mixed Age Groups—Minimum Child to Staff Ratios

1. An average of the child to staff ratios may be applied to mixed age groups of children ages two, three, four and five.

2. Child to staff ratios for children under age two are excluded from averaging.

3. When a mixed age group includes children younger than age two, the age of the youngest child determines the child to staff ratio for the group.

4. An average may be applied to a mixed age group consisting only of children ages five and older.

H. Rest Time—Minimum Child to Staff Ratios

1. Sufficient staffing needed to satisfy child to staff ratios shall be present on the premises during rest time and available to assist as needed.

2. Children ages one and older may be grouped together at rest time with one staff member in each room supervising the resting children.

I. Walking To and From School. Minimum child to staff ratios shall be met when walking children to and from school.

J. Field Trips—Minimum Child to Staff Ratios

1. Minimum child to staff ratios, plus one additional adult, shall be met for all field trips.

2. An adult staff member from the center shall be present with each group of children.

3. At no time shall a child or group of children be left alone without an adult staff member present unless the child is supervised by the parent of the child or designated representative authorized in writing by the parent.

**K. Non-vehicular Excursions—Minimum Child to Staff Ratios**

1. Minimum child to staff ratio, plus one additional adult, shall be met for all non-vehicular excursions.
2. An adult staff member from the center shall be present with each group of children.

3. At no time shall a child or group of children be left alone without an adult staff member present unless the child is supervised by the child’s parent or designated representative authorized in writing by the parent on the non-vehicular excursions.

**L. Water Activities—Minimum Child to Staff Ratios**

1. A minimum of two staff shall be present when children are engaged in water activities.

2. The following minimum child to staff ratios apply when children are engaged in water activities, excluding water play activities, unless the children are participating in swimming lessons with a certified water safety instructor.

Ages of Children	Ratio
Three years	20:2
Four years	25:2
Five years and up	30:2

3. The age of the youngest child determines the child to staff ratio when children in a group are of mixed ages.

**M. Special Needs Children—Minimum Child to Staff Ratios.** When the nature of a child with special health care needs or the number of children with special health care needs warrants added care, the center shall add sufficient staff as necessary.

**N. Maximum Group Size**

1. Type II and Type III

Age of Children	Maximum Group Size
Infants under 1 year	15
1 year	21
2 years	22
3 years	26
4 years	30
5 years	38
6 years and up	46

2. Type I

Age of Children	Maximum Group Size
Infants under 1 year	18
1 year	24
2 years	24
3 years	28
4 years	32
5 years	40
6 years and up	50

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.40(A)(3).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:638 (April 2017), LR 44:250 (February 2018), effective March 1, 2018.

**§1715. Staff Records and Personnel Files**

**A. Staff Members.** Personnel files for each staff member shall be maintained at the center and shall include the following:

1. an application or staff information form containing the following information: name, date of birth, home address and phone number, training, work experience, educational background and hire date;
2. copy of a state or federal government issued photo identification;
3. upon termination or resignation of employment, the last date of employment and reason for leaving; and
4. documentation of CCCBC-based determination of eligibility for child care purposes from the department.

**B. Records Retention.** Staff records and personnel files shall be maintained for a minimum of three years from the date of termination of employment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.40.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018.

**§1717. Records for Independent Contractors and Student Trainees**

**A. Independent Contractors.** The following information shall be maintained for all independent contractors, including but not limited to therapeutic professionals, extracurricular personnel, contracted transportation drivers, Department of Education, Office of Early Childhood staff and local school district staff:

1. an information form that includes the person’s name, address and phone number;
2. a list of duties performed while present at the center; and
3. documentation of a CCCBC-based determination of eligibility for child care purposes from the department or documentation of the adult staff member not otherwise counted in child to staff ratios that accompanied the contractor at all times while the contractor was at the center when children were present, to include the date, contractor arrival and

departure time, language stating that the contractor was accompanied by the staff member at all times while at the center when children were present, and the signature of both the contractor and the accompanying staff member.

B. Student Trainees. The following information shall be maintained for all student trainees:

1. an application or information form with the student's name, date of birth, address and telephone number, name of the educational center and course instructor, and a job description that includes duties to be performed.
2. a list of duties performed while present at the center; and
3. documentation of a CCCBC-based determination of eligibility for child care purposes from the department.

C. Records Retention. Records for independent contractors and student trainees shall be maintained for a minimum of three years from the date the contractor or student was last present at the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1), R.S. 17:407:40, and R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018.

#### **§1719. Orientation Training**

A. Within seven calendar days of date of hire, and prior to assuming sole responsibility for any children, each staff member shall receive orientation to the policies and practices of the center that at a minimum shall include:

1. child abuse identification and reporting;
2. emergency preparation;
3. licensing regulations; and
4. safe sleep practices.

B. Within 30 calendar days of date of hire, each staff member shall receive orientation to the additional policies and practices of the center that at a minimum shall include:

1. child development;
2. child guidance;
3. learning activities;
4. health and safety;
5. shaken baby prevention; and
6. CPR and first aid, as applicable.

C. All staff members responsible for transporting children shall receive additional orientation training in the following areas prior to assuming their transportation duties:

1. transportation regulations, including the modeling of how to properly conduct a vehicle passenger check and demonstration by staff to director on how to conduct a vehicle passenger check;
2. proper use of child safety restraints required by state law;
3. proper loading, unloading, and tracking of children as required by state law;
4. location of first aid supplies; and
5. emergency procedures for the vehicle, including actions to be taken in the event of accidents or breakdowns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016).

#### **§1721. Continuing Education**

A. Early learning centers shall provide opportunities for continuing education of staff members who are left alone with children, or who have supervisory or disciplinary authority over children.

1. Staff members of early learning centers, excluding foster grandparents, shall obtain a minimum of 12 clock hours of continuing education per center anniversary year.

B. Staff members of type I, type II and type III centers who are neither left alone with children, nor have supervisory or disciplinary authority over children, shall obtain a minimum of three clock hours of continuing education in job related topics per center's anniversary year.

C. Continuing education for all types of centers shall be conducted by trainers approved by the Licensing Division. The Licensing Division shall keep a registry of approved trainers.

D. Continuing education hours shall be in the areas of:

1. child development;
2. child guidance;
3. child abuse prevention;
4. emergency preparation;
5. licensing regulations;
6. learning activities;
7. health and safety;
8. shaken baby prevention;

9. CPR;
10. first aid;
11. management/administrative education; and
12. college credit hours in child care, child development, and/or early childhood.

E. The three hours of training by a child care health consultant on infectious diseases, health and safety, and/or food service preparation required in LAC 51:XXI.301.A.9 shall not count towards continuing education hours for staff members.

F. Pediatric first aid training and infant/child/adult CPR training may count as continuing education in the anniversary year in which it is taken.

G. Medication administration training by a child care health consultant may count as continuing education in the anniversary year in which it is taken.

H. Copies of certificates of completion or transcripts shall be maintained at the center and available for inspection by the licensing division upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:555 (April 2016), LR 44:251 (February 2018), effective March 1, 2018.

### **§1723. CPR and First Aid Certifications**

A. Infant and child CPR. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff on the premises and accessible to children, whichever is less, shall have current certification in infant and child CPR.

B. Adult CPR. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff on the premises and accessible to children, whichever is less, shall have current certification in adult CPR.

C. Pediatric First Aid. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff on the premises and accessible to children, whichever is less, shall have current certification in pediatric first aid.

D. Certification. A copy of the certification for each such staff member shall be on-site at all times and available for inspection by the Licensing Division.

E. First Responder. Staff members who maintain current certification as a first responder are considered to have current certification in CPR and pediatric first aid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018.

### **§1725. Medication Management Training**

A. All staff members who administer medication shall have medication administration training.

B. Whether administering medication or not, each early learning center shall have at least two staff members trained in medication administration.

C. Such training shall be completed every two years with an approved child care health consultant.

D. A licensed practical nurse (LPN) or registered nurse (RN) with a valid nursing license shall be considered to have medication administration training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018.

## **Chapter 18. Child Care Criminal Background Checks (CCCBC)**

### **§1805. Persons Ineligible for Child Care Purposes**

A. A person shall be ineligible for child care purposes if the person:

1. refuses to consent to a CCCBC-based determination of eligibility for child care purposes;
2. knowingly makes a materially false or incomplete statement in connection with the CCCBC-based determination of eligibility for child care purposes;
3. has been convicted of or plead guilty or *nolo contendere* to any of the crimes listed in R.S. 15:587.1(C), or those of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C); or
4. is registered or required to be registered on the Louisiana sex offender and child predator registry, any other state sex offender registry, or the national sex offender registry.

B. A person shall also be ineligible for child care purposes if upon the department's written request to DCFS after March 1, 2018, for information as to whether a person's name is on the state central registry within DCFS, the department receives written notice from DCFS that the person's name is recorded on the state central registry as a perpetrator for a justified finding of child abuse or neglect.

1. Until the required written notice is received from DCFS indicating that a person's name is recorded on the state central registry as a perpetrator for a justified finding of child abuse or neglect, the department shall not withhold a determination that a person is eligible for child care purposes, unless the results of some other component of the CCCBC require a determination of ineligibility.

C. A person may also be ineligible for child care purposes if upon the department's request for information from another state, the department receives from the state written notice that the person's name is recorded on that state's registry or repository of child abuse and neglect as having a finding of child abuse or neglect or written notice that the person is ineligible for child care purposes.

D. In addition, neither an owner, director, or director designee shall have been convicted of, or pled guilty or nolo contendere to any of the following crimes of fraud: 18 U.S.C. 287, 18 U.S.C. 1341, R.S. 14:67.11, R.S. 14:68.2, R.S. 14:70, R.S. 14:70.1, R.S. 14:70.4, R.S. 14:70.5, R.S. 14:70.7, R.S. 14:70.8, R.S. 14:71, R.S. 14:71.1, R.S. 14:71.3, R.S. 14:72, R.S. 14:72.1, R.S. 14:72.1.1, R.S. 14:72.4, R.S. 14:72.5, R.S. 14:73.5, and R.S. 14:133.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018.

**§1807. CCCBC-Based Determinations of Eligibility for Child Care Purposes Required for Owners, Volunteers, Staff, Visitors and Contractors of Early Learning Centers**

A. Owners. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each owner prior to submitting an initial application for licensure and shall provide documentation of said determination for each owner with an initial application for licensure. The center shall have documentation of said determinations available at all times for inspection upon request by the Licensing Division.

1. New Members or Owners. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for new members or owners that are to be added to a partnership, church, corporation, limited liability company or governmental entity, even if such change does not constitute a change in ownership for licensing purposes, in the same manner as for original owners and members.

2. Affidavit. If a person owns less than a 25 percent share in the ownership or management of an early learning center and does not meet one or more of the criteria listed in §503.A.5.b, said person may submit a signed, notarized affidavit to the center in lieu of providing a CCCBC-based determination of eligibility. The affidavit shall certify that the person has less than a 25 percent share in the ownership or management of the center and does not meet any of the criteria listed in §503.A.5.b.

B. Volunteers and Staff. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each volunteer, staff member, or employee of any kind, and shall have documentation of said determination available at all times for inspection upon request by the Licensing Division.

C. Visitors and Contractors. An early learning center shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for each visitor or independent contractor of any kind, and shall have documentation of said determination available at all times for inspection upon request by the licensing division, unless the visitor or independent contractor, other than *therapeutic professionals* as defined in §103, will be accompanied at all times while at the center when children are present, by an adult staff member who is not being counted in child-to-staff ratios. The center shall have documentation of said determination of eligibility, or documentation of the accompanying staff member, available at all times for inspection upon request by the Licensing Division.

1. Documentation of the adult staff member not otherwise counted in child to staff ratios who accompanied a visitor or independent contractor shall include the date, arrival and departure time of the visitor or contractor, language stating that the visitor or contractor was accompanied by the staff member at all times while at the center when children were present, and the signature of both the contractor and the accompanying staff member.

D. Parents or Legal Custodians, Grandparents, Siblings

1. Parents or legal custodians of an enrolled child, or other persons authorized in writing by the parents to pick up their child, who are only bringing a child to or picking up a child from an early learning center are not required to have a CCCBC-based determination of eligibility for child care purposes.

2. Parents or legal custodians, grandparents, siblings and other relatives of an enrolled child who are attending a function at the center where center staff will be present and supervising all children are not required to have a CCCBC-based determination of eligibility for child care purposes.

E. Court-Appointed Special Advocate. A court-appointed special advocate (CASA volunteer) shall submit to an early learning center his or her CASA volunteer order of assignment that is signed by a juvenile court judge and the CASA volunteer, and it shall be accepted by the center as documentation of eligibility for child care purposes for the CASA volunteer pursuant to *Louisiana Children's Code*, art. 424.1(D).

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018.

## **Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards**

**§1901. General Safety Requirements**

A. Telephones and Emergency Numbers

1. A working phone capable of incoming and outgoing calls shall be readily available at the center at all times. Cellular phones are not acceptable for this purpose.

2. When a center has multiple buildings and a phone is not located in each building where children are present, the center shall establish and follow written procedures for securing emergency help. The written procedures shall be posted in each building.

3. Centers located in schools and churches shall have a phone within the licensed area.

4. Appropriate emergency numbers, including but not limited to numbers for the fire and police departments, nearby hospitals and medical centers, Louisiana Poison Control and Child Protective Services, and the physical address of the center, shall be prominently posted on or near each phone.

B. Lighting. Areas used by children shall be lighted in such a way as to allow visual supervision of the children at all times.

C. End-of-Day Check. The entire center and play yard shall be checked after the last child departs to ensure that no child is left at the center and this check shall be documented. Documentation shall include date, time of visual check, and signature of the staff conducting the visual check.

D. Sex Offender Registry. An early learning center shall register with the Louisiana State Police sex offender registry at [www.lsp.org](http://www.lsp.org) to receive updates when a sex offender moves within two miles of the center.

E. Centers shall not permit any individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to the center.

F. The owner or director of an early learning center shall immediately notify law enforcement personnel and the Licensing Division if they have knowledge that a registered sex offender is on the premises of the center. The verbal report shall be followed by a written report to the Licensing Division within 24 hours.

G. All equipment used by children shall be maintained in a clean and safe condition and in good repair.

H. Moveable equipment shall be secured and supported so that it shall not fall or tip over.

I. Microwave ovens, bottle warming devices and crock pots are prohibited in areas accessible to children.

J. Items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils, shall be kept in a locked cabinet or other secure place that ensures they are inaccessible to children.

K. Plastic bags, when not in use, regardless of purpose or use, shall be made inaccessible to children.

L. Construction, remodeling, and alterations of structures shall be done in such a manner so as to prevent hazards or unsafe conditions, such as fumes, dust and safety hazards.

M. Strings and cords, including but not limited to those found on equipment, window coverings, televisions and radios, shall be inaccessible to children under age four.

N. First aid supplies shall be kept at the center and shall be easily accessible to employees but not accessible to children.

O. The center shall prohibit the use of alcohol and tobacco and the use or possession of illegal substances, unauthorized potentially toxic substances, fireworks and firearms, and pellet and BB guns on the center premises and notice to this effect shall be posted.

P. The personal belongings of center staff members shall be inaccessible to children.

Q. The center shall post a copy of the current "The Safety Box" newsletter issued by the Louisiana Office of the Attorney General and shall immediately remove from the early learning premises any items listed as recalled.

R. Lawn cutting services shall not occur while children are on the playground or outside the early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016).

#### **§1915. Health Services**

A. Observation. Upon arrival at the center, the physical condition of each child shall be observed for possible signs of illness, infections, bruises or injuries, and when something is observed, it shall be documented and such documentation shall include an explanation from the parent or child.

B. Reporting. Incidents, injuries, accidents, illnesses, and unusual behavior shall be documented and reported to the parent no later than when the child is released to the parent or authorized representative on the day of the occurrence.

C. Immediate Notification. The parent shall be immediately notified in the following circumstances:

1. blood not contained in an adhesive strip;
2. head or neck or eye injury;
3. human bite that breaks the skin;
4. animal bite;
5. impaled object;
6. broken or dislodged teeth;
7. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
8. unusual breathing;
9. symptoms of dehydration;
10. temperature reading over 101° oral, 102° rectal, or 100° axillary; or
11. injury or illness requiring professional medical attention.

D. The center shall not delay seeking care while attempting to contact a parent if emergency medical attention is required.

E. Information regarding the medical condition of a child may be posted in public view if the center obtains a signed and dated statement from the parent granting such permission.

F. Influenza Information. Centers shall provide each parent information concerning the influenza immunization by November first of each year. The Licensing Division shall provide information about influenza annually to each licensed center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:639 (April 2015), effective July 1, 2015.

### **§1919. Food Service and Nutrition**

A. All meals and snacks provided by the center, and their preparation, service and storage, shall meet the requirements for meals of the U.S. Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP) and 7 CFR 226.20 and the *Louisiana Sanitary Code*, Title 51, Part XXIII, found at LAC 51:XXXIII. For the current CACFP meal patterns, contact the Louisiana Department of Education, Division of Nutrition Support.

B. The weekly menu shall:

1. be planned for each day of the week and list the specific food items served;
2. be prominently posted by the first day of each week and remain posted throughout the week; and
3. have substitutions or additions posted on or near the menu.

C. Information regarding food allergies and special diets of children shall be posted in the food preparation area with special care taken to ensure that individual names of children are not in public view. If a parent chooses to allow the center to post the child's name and allergy information in public view, the center shall obtain a signed and dated authorization from the parent.

D. A minimum of a breakfast or morning snack, lunch, and afternoon snack shall be served to children, and meals and snacks shall be served not more than three hours apart.

1. Centers who do not serve breakfast shall have nutritious food available for children who arrive in the morning without having eaten breakfast.

2. Children under age four shall not have foods that are implicated in choking incidents. Examples of these foods include, but are not limited to: whole hot dogs, hot dogs sliced in rounds, raw carrot rounds, whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, chips, peanuts, popcorn, marshmallows, spoonful of peanut butter, and chunks of meat larger than what can be swallowed whole.

3. Children shall be allowed a reasonable time to eat each meal and snack. Children shall not be forced to finish all their food.

4. Food shall be given to children on individual plates, cups, napkins, or paper towels, as appropriate, and individual utensils shall be provided, as appropriate.

5. Drinking water shall be readily available indoors and outdoors to children at all times. Water shall be given to infants only with written instructions from parents or a physician.

E. Parents shall be allowed to provide breast milk.

F. Centers may allow parents to bring food into the center.

G. Parents of all children in a class with a child with allergies shall be advised to avoid any known allergies in class treats or food brought into the center.

H. Infants that cannot hold a bottle shall be held while being bottle-fed. A child shall not be placed lying down on a mat or otherwise with a bottle, sippy cup, etc. A bottle shall not be propped at any time.

I. Microwave ovens shall not be used for warming bottles or infant food.

J. Bottled formula/breast milk for infants shall be labeled with the child's name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:640 (April 2015), effective July 1, 2015, amended LR 44:257 (February 2018), effective March 1, 2018.

### **§1921. Emergency Preparedness and Evacuation Planning**

A. Emergency and Evacuation Plan. The director shall consult with appropriate state and local authorities and shall establish and follow a written multi-hazard emergency and evacuation plan to protect children in the event of emergencies that at a minimum shall:

1. address any potential disaster related to the area in which the center is located;
2. include procedures for sheltering in place, lockdown and evacuation to a pre-determined site for potential threats to the safety, health and well-being of children in care;
3. include specific procedures for handling infants through two year olds;
4. include specific procedures for handling children with special needs, including the evacuation and transportation of children in wheelchairs;
5. include a system to account for all children;
6. include a system, and a back-up system, for contacting parents and authorized third party release caretakers;
7. include a system to reunite children and parents following an emergency;
8. include procedures for providing information about the emergency plan to parents at the time of enrollment and when changes occur;
9. be reviewed annually for accuracy and updated as changes occur; and
10. be reviewed with all staff at least once per year.
11. practice drills shall be conducted at least twice per year to include all children and shall be documented.

B. Individualized Emergency Plan. An individualized emergency plan shall be in place for each child with special needs and shall include medical contact information and additional supplies and equipment as needed.

C. Evacuation Pack. The center shall have an evacuation pack, the location of which is known to all staff, that at a minimum shall contain:

1. a list of area emergency phone numbers;
2. a list of emergency contact information and emergency medical authorization for all enrolled children;
3. an emergency pick up form;
4. first aid supplies, hand sanitizer, wet wipes, and tissue;
5. diapers for children who are not toilet trained and plastic bags for diapers;
6. a battery powered flashlight and radio and batteries;
7. food for children under the age of 4, including infant food and formula; and
8. disposable cups and bottled water.

D. Records. A center shall maintain a copy of records, documents, and computer files necessary for its continued operation following an emergency in either a portable file or at an off-site location.

E. Tornado Drills. Tornado drills shall be conducted at least once per month in the months of March, April, May, and June at various times of the day necessary to include all children and shall be documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:2173 (December 2016).