

## DECLARATION OF EMERGENCY

### Department of Social Services Office of Family Support

Child Daycare Services and Child  
Care Quality Rating System  
(LAC 67:III.5121, 7302, 7303, 7305,  
7355, 7357, 7359, and 7361)

The Department of Social Services (DSS), Office of Family Support (OFS), has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) to amend the Louisiana Administrative Code (LAC) 67:III.Subpart 12, Child Care Assistance, and LAC 67:III.Subpart 21, Child Care Licensing, and to become effective upon the signature of the Secretary to comply with Acts 194, 351 and 343 of the 2009 Regular Session of the Louisiana Legislature.

Act 194 of the 2009 Regular Session transferred sole authority over rulemaking and decisions to deny or revoke a child care facility license from external committees to the Department of Social Services, makes uniform the requirements of licensure for all types of facilities, and shortens the time during which a center may remain open following revocation. It also requires creation of an Advisory Council on Child Care to advise the Department on rule-making for child day care facilities. Act 343 requires the department to provide current information on influenza, including known risks of the various strains of the disease and the risks and benefits of immunization, to parents of children in child care facilities, including child residential care facilities. Act 351 requires child day care facilities to make available to parents information on violations of the child care minimum standards at those facilities.

LAC 67.III.Chapter 51, Subchapters A, B and D will remain intact without amendment; Subchapter C will be amended and re-enacted to clarify that a quality star rating will be revoked if the facility's license is revoked. LAC 67 Chapter 73 will be amended and reenacted to create the Advisory Council on Child Care and Early Education to comply with Act 194 and to remove references to the former Class A and Class B Committees abolished by that Act. It will also be amended to include notification to parents about requirements regarding licensing surveys and influenza outbreaks mandated by Acts 351 and 343 of the 2009 Regular Session.

This Rule will remain in effect 120 days and is effective October 26, 2009.

#### Title 67

#### Social Services

#### Part III. Office of Family Support

#### Subpart 12. Child Care Assistance

#### Chapter 51. Child Care Assistance Program

#### Subchapter C. Child Care Quality Rating System

#### §5121. Participation

A. - C. ...

D. Centers that have achieved a Star Rating will have their rating revoked if the child care license is revoked.

E. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S.36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 33:2788 (December 2007), amended LR 34:2412 (November 2008), amended by the Department of Social Services, Office of Family Support, LR 36:

#### Subpart 21. Child Care Licensing

#### Chapter 73. Day Care Centers

#### Subchapter A. Licensing Class "A" Regulations for Child Care Centers

#### §7302. Authority

A. Legislative Provisions. The State of Louisiana, Department of Social Services, is charged with the responsibility for developing and publishing standards for the licensing of child care centers. The licensing authority of the Department of Social Services is established by R.S. 46:1401 et seq., making mandatory the licensing of all child care facilities and child placing agencies, including child care centers. Under R.S. 46:1403, a child *day care center* is defined as a place or facility operated by any institution, 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 guardian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week. Additionally, *related or relative* is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

B. - C.3. ...

D. The Louisiana Advisory Council on Child Care and Early Education

1. The Louisiana Advisory Council on Child Care and Early Education is hereby created in accordance with R.S. 46:1414, as amended by Acts 2009, No. 194, to provide input and guidance to the Department of Social Services on matters pertaining to rules, regulations and standards for licensure of Class A and Class B day care centers as defined in R.S. 46:1403(A)(4).

2. The Council shall be composed of 12 voting members, appointed by the Secretary of the Department of Social Services and 9 non-voting ex-officio members. The membership shall consist of:

a. one parent of a child currently enrolled in a licensed child care facility;

b. three owners or directors of licensed child care facilities in Louisiana, and one faith based child care provider;

c. two professionals and/or faculty of child development and/or early childhood education programs at community technical colleges or universities located in Louisiana;

d. one representative from each of the following advocacy organizations: the Louisiana Head Start Association, the Louisiana Partnership for Children and Families, the Louisiana Association for the Education of Young Children, the Child Care Association of Louisiana, and the Louisiana Early Childhood Association of Louisiana; and

e. nine non-voting ex-officio members consisting of one representative of each of the following offices or agencies: the Department of Education Pre-Kindergarten Program, the Department of Education Child and Adult Care Food Program, the Louisiana Office of State Fire Marshal, the Department of Health and Hospitals Office of Sanitarian Services, the Louisiana Workforce Commission, the Louisiana State Police Bureau of Criminal Identification,

and three representatives from the Department of Social Services.

3. Members will be appointed to serve an initial two-year term on the Council and may be eligible to be reappointed to serve an additional two-year term.

4. A member shall be automatically removed from the advisory council if he/she has two or more unexcused absences during any 12-month period. An absence is excused for purposes of this Section when the cause is one which a reasonably-prudent person would deem to take precedence over fulfillment over a solemn public duty; or, if the absence is known in advance to be probable, if the member notifies the chairperson of his/her expected absence not less than 24 hours in advance of the scheduled meeting.

5. A quorum shall consist of a simple majority of the active voting members.

6. Whenever a vacancy occurs in any Council seat, whether by death, resignation, or automatic removal, such vacant seat shall no longer be counted as an active voting member in determining a quorum until a successor has been appointed by the secretary to fill the unexpired term.

7. Officers of the council shall include a chair, vice-chair and secretary.

8. All meetings shall be conducted in accordance with the state's Open Meetings law. Procedural matters shall be conducted in accordance with the latest edition of Robert's Rules of Order.

9. Members shall serve without compensation or reimbursement.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended by the Department of Social Services, Office of Family Support, LR 36:

### **§7303. Procedures**

A. - C.2. ...

C.3.If the survey reveals that the provider is not meeting minimum requirements, a decision may be made by the department for adverse action.

D. - E.1. ...

2. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the notice within 15 days of receipt of the notice of revocation or non-renewal. In the case of a denial of an initial application for a license, a provider may appeal the denial by submitting a written request to appeal the decision within 30 days of receipt of the notice of denial of application. A request for appeal should include the specific reasons the decision is believed to be erroneous and/or the specific reasons the decision is believed to be incorrect, and mailed to: Department of Social Services, Bureau of Appeals, P. O. Box 2944, Baton Rouge, LA 70821-9118.

E.3. - F.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of

Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended by the Department of Social Services, Office of Family Support, LR 36:

### **§7305. General Requirements**

A. - K. ...

L. Licensing Surveys; Notice Requirements. In accordance with Act 351 of the 2009 Regular Legislative Session, providers shall prominently post information advising parents or guardians that findings from licensing surveys are available online which includes the current web address and that findings from licensing surveys are also available upon written request to the Department of Social Services.

M. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2760 (December 2007), amended by the Department of Social Services, Office of Family Support, LR 36:

### **Subpart 21. Child Care Licensing**

#### **Chapter 73. Day Care Centers**

#### **Subchapter B. Licensing Class "B" Regulations for Child Care Centers**

### **§7355. Authority**

A. The Louisiana Advisory Council on Child Care and Early Education

1. The Louisiana Advisory Council on Child Care and Early Education is hereby created in accordance with R.S. 46:1414, as amended by Acts 2009, No. 194, to provide input and guidance to the Department of Social Services on matters pertaining to rules, regulations and standards for licensure of Class A and Class B day care centers as defined in R.S. 46:1403(A)(4).

2. The Council shall be composed of 12 voting members appointed by the Secretary of the Department of Social Services and 9 non-voting ex-officio members. The membership shall consist of:

a. one parent of a child currently enrolled in a licensed child care facility;

b. three owners or directors of licensed child care facilities in Louisiana, and one faith-based child care provider;

c. two professionals and/or faculty of child development and/or early childhood education programs at community technical colleges or universities located in Louisiana;

d. one representative from each of the following advocacy organizations: the Louisiana Head Start Association, the Louisiana Partnership for Children and Families, the Louisiana Association for the Education of Young Children, the Child Care Association of Louisiana, and the Louisiana Early Childhood Association of Louisiana; and

e. nine non-voting ex-officio members consisting of one representative of each of the following offices or agencies: the Department of Education Pre-Kindergarten Program, the Department of Education Child and Adult Care Food Program, the Louisiana Office of State Fire Marshal, the Department of Health and Hospitals Office of Sanitarian Services, the Louisiana Workforce Commission, the Louisiana State Police Bureau of Criminal Identification, and three representatives from the Department of Social Services.

3. Members will be appointed to serve an initial two-year term on the Council and may be eligible to be reappointed to serve an additional two-year term.

4. A member shall be automatically removed from the advisory council if he/she has two or more unexcused absences during any 12-month period. An absence is excused for purposes of this Section when the cause is one which a reasonably-prudent person would deem to take precedence over fulfillment over a solemn public duty; or, if the absence is known in advance to be probable, if the member notifies the chairperson of his/her expected absence not less than 24 hours in advance of the scheduled meeting.

5. A quorum shall consist of a simple majority of the active voting members.

6. Whenever a vacancy occurs in any Council seat, whether by death, resignation, or automatic removal, such vacant seat shall no longer be counted as an active voting member in determining a quorum until a successor has been appointed by the secretary to fill the unexpired term.

7. Officers of the council shall include a chair, vice-chair and secretary.

8. All meetings shall be conducted in accordance with the state's Open Meetings law. Procedural matters shall be conducted in accordance with the latest edition of Robert's Rules of Order.

9. Members shall serve without compensation or reimbursement.

B. Penalties. The penalty for the operation of a center without a valid license is a fine of not less than \$75 and not more than \$250 for each day of operation without a license.

C. Injunctions. If any child care facility operates without a valid license issued by the department, the department may file suit in the district court in the parish in which the facility is located for injunctive relief. This injunctive order may include a temporary restraining order to restrain the institution, society, agency, corporation, person or persons, or any other group operating the child care facility from continuing the violation.

D. Inspections. It shall be the duty of the Department of Social Services, through its duly authorized agents, to inspect at regular intervals not to exceed one year or as deemed necessary by the department and without previous notice all child care facilities and child-placing agencies

subject to the provisions of the Chapter (R.S. 46:1401 et seq.). The facility shall be open to inspection at all times during working hours or when children are in care by the parents or legal guardians of children in care and by all authorized inspection personnel.

E. Waivers. The Secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical. These standards may be waived only if the health and well being of the staff and/or the children are not placed in danger.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended by the Department of Social Services, Office of Family Support, LR 36:

### **§7357. Definitions**

A. The following are definitions of terms used in these minimum standards.

*Bureau*—the Bureau of Licensing of the Louisiana Department of Social Services.

*Child Care Center*—any place or facility operated by any institution, 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 guardian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. *Related or relative* is defined as the natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

*Child Care Staff*—an individual directly involved in the care and supervision of the children in the center.

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*Committee on Private Child Care*—Repealed.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended by the Department of Social Services, Office of Family Support, LR 36:

### **§7359. Procedures**

A. - F.10. ...

G. Appeal Procedure

1. A provider may appeal the revocation or non-renewal of a license by submitting a written request to appeal the decision along with a copy of the notice within 15 days of receipt of the notice of revocation or non-renewal. A prospective provider may appeal the denial of an initial application by submitting a written request to appeal the decision within 30 days of receipt of the notice of denial of application. A request for appeal shall include the specific reasons the provider believes the decision to be erroneous and/or the specific reasons the decision is believed to be incorrect, and mailed to: Department of Social Services,

Bureau of Appeals, P. O. Box 2944, Baton Rouge, LA 70821-9118.

G.2. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2771 (December 2007), amended by the Department of Social Services, Office of Family Support, LR 36:

**§7361. General Requirements**

A. - J. ...

K. Licensing Surveys; Notice Requirements. In accordance with Act 351 of the 2009 Regular Legislative Session, providers shall prominently post information advising parents or guardians that findings from licensing surveys are available online which includes the current web address and that findings from licensing surveys are also available upon written request to the Department of Social Services.

L. Influenza Notice to Parents. In accordance with Act 343 of the 2009 Regular Legislative Session, providers shall make available to each child's parent or legal guardian information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a child may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Social Services and shall be made available to parents or legal guardians prior to November 1 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2760 (December 2007), amended by the Department of Social Services, Office of Family Support, LR 36:

Kristy H. Nichols  
Secretary

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