



CDSS

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INTRODUCTION

The following questions were generated at a series of three regional roundtable sessions conducted in 2008 by Region IX and CCLD, in cooperation with the STG International Technical Assistance Network, CHSA, and the CHSSCO.

The answers have been developed and reviewed by the CCLD Workgroup which consists of representatives from CCLD, Head Start/Early Head Start grantees, CHSA, and CHSSCO. Each answer also notes the applicable regulatory citation, as necessary and appropriate. Programs should also note that they may be subject to other regulatory requirements from funding sources.

PROGRAM

1. Children’s scissors are accessible to the children in the art area. I have been informed they should not be available to the children at all times, but should be kept in a locked cabinet. Is this true?

Answer:

There is no regulation that requires that scissors be *locked up*. However, **Title 22 Regulations Section 101238(g) and (i), Buildings and Grounds**, requires that disinfectants, cleaning solutions, poisons *and other items that could pose a danger if readily available to children* shall be stored where inaccessible to children and shall not be stored in storage areas used by or for children

2. How long should the rest period and outside activities be for a full day class?

Answer:

Regulations do not specify length of activities. **Title 22 Regulations Section 101230(a) and (b), Activities/Napping**, require that each center provide a variety of daily activities designed to meet the needs of children in care, including, but not limited to, quiet and active

play, rest and relaxation, eating and toileting. All children shall be given an opportunity to nap or rest without distraction or disturbance from other activities at the center.

Health and Safety Code, Section 1597.05(a) limits Department licensing reviews to health and safety considerations and shall not include any reviews of the content of any education or training program of the facility.

Although Licensing is not authorized to inspect for specific program content, Licensing is required to review for health and safety and to ensure the protection of children's health and welfare. Should Licensing find that children are not being allowed to play or rest, the facility may be cited.

3. When children in Head Start are bused, we've asked the bus drivers to sign children in, and then our staff would be responsible from that moment on. How should we respond if a driver refuses to sign the children in and out?

Answer:

Title 22 Regulations Section 101229.1(a) requires the licensee to develop, maintain and implement a written procedure to sign the child in/out of the child care center that shall, at a minimum, include the following:

- The person who signs the child in/out shall use his/her full legal signature and shall record the time of day.
 - ✓ The person who brings the child to, and removes the child from, the center shall sign the child in/out.
 - ✓ A person who removes the child from the center during the day, and returns the child to the center the same day, shall sign the child in/out.

Title 22 Regulations Section 101226.1(b)(2), Daily Inspection for Illness, stipulates that no child shall be accepted without contact between center staff and the person bringing the child to the center. Centers failing to meet this requirement could be cited. It is strongly recommended that licensees work with the Bus Company or agency hiring the bus driver regarding these licensing requirements.

4. What should the quarterly disaster drills consist of in the infant room, the toddler room, and the preschool?

Answer:

Title 22 Regulations Section 101174(c), Disaster and Mass Casualty Plan, the licensee shall instruct all children, age and abilities permitting, and all child care

personnel, including volunteers, in their duties and responsibilities under the plan. However, regulations do not specify drill differences for different age groupings.

Title 22 Regulations Section 101174(a) and (b), require that each licensee have a disaster and mass casualty plan of action, that it be in writing, readily available, and include specific information. However, regulations do not dictate how licensees must carry out the plan.

The intent in requiring a disaster and mass casualty plan is to ensure that licensees have a well-thought-out plan in place and regulations provide a framework from which to develop an appropriate plan.

Note: The Department's Child Care Advocate Program Self-Assessment Guides: "Disaster Guide for Homes and Centers", is available on the Child Care Licensing website. The Early Learning and Knowledge Center is also a good resource to assist programs in planning in this area. Local State Fire Marshall Offices may also have suggestions and guidance on how to quickly and safely get infants and toddlers out of a facility during emergencies.

5. Are there ways that a grantee can support CCLD when performing our internal monitoring activities?

Answer:

Head Start programs are encouraged to regularly use the CCLD Self-Assessment Guides and Self-Evaluations that are available on the Child Care Licensing website.

CHILD'S RECORDS

6. Are parent's T.B. tests required in each child's file at the site?

Answer:

Parents who provide care and supervision in classrooms fall within the category of a volunteer.

Title 22 Regulations Section 101217 (b), Personnel Records, requires personnel records to be maintained for **all volunteers** and shall contain the following:

- A health statement as specified in Section 101216(g).
- Tuberculosis test documents as specified in Section 101216(g)(3).
- For volunteers that are required to be fingerprinted pursuant to Section 101170:
 - ✓ A signed statement regarding their criminal record history as required by Section 101170(d).

- ✓ Documentation of either a criminal record clearance or a criminal record exemption as required by 101170(e).

Title 22 Regulations Section 101217(c), Personal Records, all personnel records shall be available to the Department to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying.

7. What is the requirement regarding the location of the child's physical exam?

Answer:

Title 22 Regulations Section 101221(b)(8), Child's Records, requires that a "medical assessment", including ambulatory status, be kept in the child's record at the center.

8. What is the requirement for the central file?

Answer:

All children's and personnel records, as specified in Sections 101221 and 101217, must be maintained at the Center. The LIC 311A lists all documents that must be maintained on file at the facility.

Title 22 Regulations Section 101217(c) specifies that if the facility maintains all records in a central administrative location, they must be made available to the Department to inspect, audit, and copy upon demand during normal business hours.

9. Will agencies be fined or cited by CCLD if an enrolled child does not have a physical exam on file within 30 days of admission?

Answer:

Title 22 Regulations Section 101220(d), Child's Medical Assessments, specifies that if a medical assessment is not available for a child and cannot be obtained within 30 days of admission:

- A medical appointment date shall be obtained from the authorized representative upon the child's admission.
- A TB test shall be obtained on the child within 30 days of admission.

If it is determined during a facility visit that a child's medical assessment is missing *and no appointment date has been scheduled*, the facility will be cited for noncompliance with Section 101220 and a plan of correction established to obtain the medical appointment.

Title 22 Regulations Section 101195(f), Penalties, if any deficiency is not corrected by

the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.

10. If a child has had a physical-medical assessment within the past 12 months prior to enrollment, in particular a PM 160 (CHDP) exam, will this meet the 30 day requirement? (Understanding that the child can only have a PM160 once a year.)

Answer:

Yes. **Title 22 Regulations Section 101220(a)(1), Child's Medical Assessment**, such assessment shall be performed by, or under the supervision of, a licensed physician, and shall not be more than one year old when obtained.

11. New Head Start Act language allows us to enroll homeless children without documents, such as immunizations, physical, etc. Is there some flexibility CCLD can provide with this to help us serve these children?

Answer:

Yes, both regulation and statute provide flexibility in this area.

Extensions:

- **H&S Code 1597.05(b)**. an extension may be granted in situations in which the licensee can demonstrate that further delays are outside of their control.
- **H&S Code 1597.05(b)(1) and (2)**, records include, but are not limited to, physical examination, reports by physicians and confirmation of recent immunizations.
- **Title 22 Regulations Section 101220(d)(1)** a medical appointment date can suffice to meet the 30-day time limit after enrollment.

Exemption:

- **Title 22 Regulations Section 101220.1(e)(1) and (2)**, a licensee can exempt a child from immunization requirements provided that 1) a physician has written that an immunization should not be given to the child and specifies how long this exemption is expected to last. Or 2) the authorized representative has specified in writing that immunizations are contrary to his/her personal or religious beliefs; or (3) vaccine shortage.

12. What type of documentation is needed to administer medication to children? Is a complete prescription label adequate or is the doctor required to complete a separate request which lists how to administer, what to do in case there is no effect, etc.?

Answer:

Title 22 Regulations Section, 101226(e)(3) Health Related Services, requires that *prescription* medications may be administered if all of the following conditions are met:

- *Prescription* medications shall be administered in accordance with the label directions *as prescribed by the child's physician*.
- For each *prescription* medication, the licensee shall obtain, in writing, approval and instructions from the child's authorized representative for the administration of the medication to the child.
 - ✓ This documentation shall be kept in the child's record.
 - ✓ The instructions from the child's authorized representative shall not conflict with the label directions as prescribed by the child's physician.

Title 22 Regulations Section, 101226(e)(4) Health Related Services, *nonprescription* medications may be administered without approval or instructions from the child's physician if all of the following conditions are met:

- *Nonprescription* medications shall be administered in accordance with the product label directions on the nonprescription medication container(s).
- For each *nonprescription* medication, the licensee shall obtain, in writing, approval and instructions from the child's authorized representative for the administration of the medication to the child.
 - ✓ This documentation shall be kept in the child's record.
 - ✓ The instructions from the child's authorized representative shall not conflict with the product label directions on the nonprescription medication container(s).

Title 22 Regulations Section, 101226(e)(5) Health Related Services, the licensee shall develop and implement a written plan to record the administration of prescription and nonprescription medications and to inform the child's authorized representative daily when such medications have been given.

13. How do you define "current" in Admission Agreement? Once signed by parent doesn't it expire or is it good perpetually?

Answer:

Once the agreement is signed upon admission, it shall remain current until and unless modified or changed in any way by the licensee or by the child's parent or authorized

representative (**Title 22 Regulations Section 101219(c) and (d), Admission Agreement**).

14. We sometimes have difficulty with providers when it comes to the medical assessment. Since there is an LIC form and the CHDP (or other form), it happens sometimes that the provider will not complete both forms.

Answer:

If the information on the “CHDP (or other form)” is identical to that required by Title 22 Child Care Center regulations, those forms may be used unless Title 22 regulations specify that a Department form must be used.

When a licensee uses mandatory forms through their funding source or corporate structure, it is recommended that they check with their LPA, to ensure the form meets Title 22 requirements.

BUILDING AND GROUNDS

15. Is a waiver available to meet the required number of toilets in a facility?

Answer:

Yes. **Title 22 Regulations Section 101175(b), Waivers and Exceptions**, CCLD has the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios. However, this would be determined on a case-by-case basis.

16. Please give examples of emergency lighting. Are windows or flashlights adequate?

Answer:

Title 22 Regulation Section 101239(d) requires licensees to provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the child care center. Should there be power outages; the licensee must ensure there is adequate and safe back-up lighting such as flashlights.

PERSONNEL

17. Is it a State Licensing requirement to maintain an emergency substitute list?

Answer:

Yes. **Title 22 Regulations Section 101216.3(e) Teacher Child Ratio**, each licensee shall maintain an up-to-date list of qualified teacher substitutes as defined in Section 101152(q)(1). Substitutes on the list shall be called immediately in case of emergency or illness to meet the required teacher-child ratios.

18. The Head Start staffing titles are different from the titles listed in Title 22. For example, Head Start programs may refer to a “Center Director” as a Center Supervisor, Site Supervisor, or Lead Teacher. All staff maintains the appropriate credentials for “Center Director”. These staff may be moved from site to site in a program year and as a result, licensing requires the submission of documents to support the change. How can we expedite this and reduce the submission of paper work?

Answer:

In order to comply with the regulations, paperwork must be provided to Licensing in order to verify staff are qualified. It is suggested that licensees work with their local child care regional office in an effort to determine if the process can be streamlined.

Title 22 Regulations Section 101212(a) and (b), Reporting Requirements, requires that each licensee or applicant to furnish to the Department reports as required by the Department including, but not limited to, the following:

- The name of the child care center director, and any fully qualified teacher(s) designated to act in the child care center director's absence, shall be reported to the Department within 10 days of a change of child care center director or designee(s).
- Whenever a change in child care center director is reported, in addition to his/her name, the report shall include the following:
 - ✓ Verification of the completion of the course work required in Section 101215.1(h). A photocopy of a college transcript, or a photocopy of a Child Development Site Supervisor Permit or a Child Development program Director Permit, shall meet this requirement.
 - ✓ Verification of successful completion of high school. A photocopy of a high school diploma or GED shall meet this requirement.
 - ✓ A summary of the experience required in Section 101215.1(h).

19. Please clarify guidelines regarding employee’s physical exam, TB test and chest x-ray. How often are these things required?

Answer:

Title 22 Regulations Section 101216(g) Personnel Requirements, requires that at time of employment or within 7 days after employment, licensees must have on file, for each employee, a health screening and TB clearance results performed within the last year.

20. Who must have CPR/1st Aid Certifications? How many per classroom or site?

Answer:

Health & Safety Code Section 1596.866, requires that at least one director or teacher must have at least 15 hours of health and safety training which shall include pediatric CPR and pediatric 1st aid. At each Child Care Facility, there must always be at least one staff member onsite who has current pediatric CPR and pediatric 1st Aid certifications from the American Red Cross, American Heart Association, a training program approved by EMSA, or training programs and courses offered by an accredited college or university.

PERSONAL RIGHTS

21. Please talk about personal rights (613a) and challenging behavior?

Answer:

It is near impossible to delineate every circumstance that could be construed as a personal rights violation. In order to ensure compliance with personal rights, it is important to be familiar with all personal rights regulations and seek to understand the intent behind them.

There are several relevant citations regarding children with challenging behaviors that licensees should be aware of:

- **Title 22, Section 101173, Plan of Operation**, requires a plan of operation which contains, in part, a statement of program methods and goals, admission policies and procedures, a plan for in-service education of staff if required by regulations governing the specific CCC category, and consultant and community resources to be utilized by the CCC as part of its program.
- **Title 22, Section 101215(b)(1), Administrator Qualifications and Duties**, requires the administrator to be knowledgeable of the requirements for providing the type of care and supervision children need, and the ability to communicate with such children.
- **Title 22, Section 101216, Personnel Requirements**, requires that CCC personnel be competent to provide the services necessary to meet the individual needs of children in care, and Licensing has the authority to require the licensee to provide additional staff whenever it is documented that additional staff are required for the provision of services necessary to meet the needs of children in care. In making this

determination, Licensing shall take into consideration the needs of children and the extent of services provided by the CCC.

This section also requires all personnel be given on-the-job training (or have related experience) in specified areas such as provision of child care and supervision, including communication and recognition of the need for professional assistance. Such training or experience shall be appropriate to the job assigned and shall be evidenced by safe and effective job performance. In addition, personnel shall provide for the care and safety of children without physical or verbal abuse, exploitation or prejudice.

- **Title 22, Section 101218, Admission Policies**, requires the facility to develop admission policies and procedures with criteria designating those children whose needs can be met by the facility's program and services. A licensee who provides care to a child with disabilities or special needs shall be able to meet the individual needs of the child.
- **Title 22, Section 101218.1, Admission Procedures and Parental and Authorized Representative's Rights**, requires the licensee to determine during the admission process if the child meets the facility's admission criteria. This includes one or more personal interviews with the child's parent or authorized representative to understand the state of the child's health and physical and emotional development, and to assess whether the CCC can meet the child's needs.
- **Title 22, Section 101219, Admission Agreements**, requires that the admission agreement contain conditions under which the agreement may be terminated.
- **Title 22, Section 101220, Child's Medical Assessments**, requires that a child's medical assessment identify special problems and needs.
- **Title 22, Section 101223, Personal Rights**, describes specific personal rights to ensure a child is treated with dignity and respect in safe, healthful and comfortable accommodations. This section prohibits the use of restraining devices.
- **Title 22, Section 101223, Personal Rights**, requires that each child have the right to be accorded dignity in his or her personal relationships with staff and others; to be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his or her needs, and to be free from corporal or unusual punishment, infliction of pain, humiliation, ridicule, coercion, threat, mental abuse or other actions of a punitive nature including but not limited to interference with functions of daily living including eating, sleeping or toileting, or withholding of shelter, clothing, medications or aids to physical functioning.

Based on these regulatory requirements, if a child is accepted for care, the licensee must ensure that staff are appropriately trained to provide the care and supervision necessary and appropriate to meet the needs of the child and to ensure protection of other children in care.

22. Other states have adopted “3 strikes you’re out” for children with significant behavior issues. Is that something that California is considering?

Answer:

The Department does not have the authority to adopt such a policy. Please see answer to question #21.

23. Will programs still be cited (Type A) with a violation, even when all systems are in place to support children with disabilities or severe behaviors are in a safe environment? (MH services, lower adult/child ratios, parent involvement, staff training....)

Answer:

It is not clear what is being asked; however, as explained above, if a child with behavior issues or special needs is accepted, the facility must meet the child’s needs. If needs are not being met resulting in a violation of regulations, a citation will occur.

Title 22 Regulations Section 101193(a), Deficiencies in Compliance, requires that if the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency unless the deficiency is not serious and is corrected during the visit.

24. Personal Rights violations seem to be open wide to interpretation. What constitutes a violation?

Answer:

See answer to question #21

STAFF TEACHER RATIOS

25. What are differences between the Head Start ratios and CCLD ratios?

Answer:

Title 22 Regulation 101216.3(a) and (b), Teacher Child Ratios, requires a ratio of one teacher visually observing and supervising no more than 12 preschool-age children in attendance. Whenever children are on the playground or engaged in activities away from the center, no teacher shall be in charge of a group of more than 12 children. Teacher aides may be used in a teacher/child ratio of one teacher and one aide for every 15

children in attendance. A ratio of one fully qualified teacher and one aide for every 18 children in attendance in a preschool program (not infant or school-age) is allowed when the aide meets additional requirements specified in regulations.

Head Start Performance Standard Sections 1306.20 and 1306.32., mandate that center-based programs have two paid staff persons (teacher and aide or two teachers) for each class. Whenever possible, there should be a third person in the classroom who is a volunteer. Class size is based on the predominant age of the children participating in the class. For classes serving predominantly four or five year olds, class size must be between 17 and 20 children. For classes serving predominantly three year olds, the average class size must be between 15 and 17 children.

26. Head Start teacher aides are teacher qualified per Head Start Performance Standards yet when there is one teacher assistant/aide with 12 children, CCLD cites the facility.

Answer:

Title 22 Regulations, Section 101216.1(b) Teacher Qualifications, requires that prior to employment, a teacher shall meet the requirements of (b)(1) or (2) below:

- A teacher shall have completed, with passing grades, at least six postsecondary semester or equivalent quarter units of the education requirement specified in (c)(1) below, or shall have obtained a Child Development Assistance Permit issued by the California Commission on Teacher Credentialing.
 - ✓ After employment, a teacher hired under (b) above shall complete, with passing grades, at least two units each semester or quarter until the education requirement specified in (c)(1) below is met.
- A teacher shall meet the requirements of Health and Safety Code Section 1597.055.

In addition, refer to question #25.

TODDLER COMPONENT

27. If children up to 36 months are able to participate in an infant program (licensed), why are we only able to provide services to children up to 30 months under an infant toddler license?

Answer:

It is permissible for a child whose **developmental needs** require continuation in an infant care center to remain in an infant care center up to a maximum age of three years (**Title 22 Regulations Section 101361(a), Limitation on Capacity**). This authority is not extended

to the toddler component in an infant care center. The age requirements for a toddler component in an infant center are established in statute and therefore cannot be waived.

28. Early Head Start children in centers with infant licenses must move at age 3 to Head Start or other program instead of when developmentally ready or when space is available, but licensing doesn't allow that. Can we get waivers?

Answer:

Yes. **Title 22 Regulations Section 101175(b), Waivers and Exceptions**, CCLD has the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios.

FINGERPRINTS AND FACILITY ASSOCIATION QUESTIONS

29. Programs associate staff with centers regularly but when the LPA conducts a review, staff are often not on the list and a Type A citation is issued. How can we avoid receiving a Type A violation for staff fingerprints that have been cleared?

Answer:

It is suggested that the licensee discuss this with the local child care regional office to determine if and where there could be a breakdown in the process.

Title 22 Regulations Section 101170(g), Criminal Record Clearance, specifies that it is the licensee's responsibility to **maintain documentation** of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 101217.

Title 22 Regulations Section 101170(e), Criminal Record Clearance, requires that all individuals subject to a criminal record review pursuant to Health and Safety Code Section 1596.871 shall prior to working, residing or volunteering in a licensed facility:

- Obtain a California clearance or a criminal record exemption as required by the Department or
- Request a transfer of a criminal record clearance as specified in Section 101170(f) or
- Request and be approved for a transfer of a criminal record exemption, as specified in Section 101170.1(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

In addition to the applicant, the following person's are subject to a criminal record review [**Health and Safety Code Section 1596.871(b)(1)**]:

- Adults responsible for administration or direct supervision of staff.
- Any person, other than a child, residing in the facility.
- Any person who provides care and supervision to the children.
- Any staff person, volunteer, or employee who has contact with the children.

Title 22 Regulations Section 101170(h), Criminal Record Clearance, violation of Section 101170(e) will result in an immediate assessment of civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five (5) days by the Department.

30. What if Administrative staff already employed do not pass Live scan or require an exemption?

Answer:

The Department has the authority to deny employment or presence in a facility based on the results of a criminal record review.

See question #29 above for CCLD criminal records requirements.

Also, see the Head Start Performance Standards and the Early Learning and Childhood Knowledge Center for Head Start criminal records requirements.

31. What happens if we now go back to fingerprint everyone (including office staff) and they do not clear licensing? Must we terminate for fear of having a Type A deficiency?

Answer:

See answers to question #29 and #30. It is suggested that licensees contact their local child care regional office to discuss the situation, the level of seriousness of the conviction, and a plan of action in an effort to avoid a Type A deficiency.

32. For staff employed by County Offices of Education, if the fingerprints clearance is kept in the personnel file at the main human resources/personnel, is it necessary to keep a copy at the site level?

Answer:

See answer to question #8.

33. School district employees must have fingerprint clearance, criminal record clearance, physicals, TB clearance, etc. before entering classrooms. This information is usually kept at the HR department & is considered confidential and not kept on school site. Yet CC analysis cannot go to this source to review records. Can this practice be looked at?

Answer:

See answer to question # 8.

34. Fingerprinting of staff that are coming from Title 5 programs, why do we need to re-fingerprint?

Answer:

Health and Safety Code Section 1596.871(b)(1)(H) and (I), does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal record clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of child care and development programs that serve both children subsidized under, and children not subsidized under, a State Department of Education contract. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

This section does not apply to employees of a child care and development program operated by a school district, county office of education, or community college district under contract with the State Department of Education who have completed a criminal record clearance as a condition of employment. The school district, county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

35. Fingerprinting-----only full time staff on payroll (Head Start). What about staff who are temps or job-on-call for 60 days to 6 months? Do consultants that provide services in classrooms need background checks?

Answer:

Health and Safety Code Section 1596.871(b)(1), Criminal Record Clearances, requires criminal record clearances of the following persons:

- Adults responsible for administration or direct supervision of staff.
- Any person, other than a child, residing in the facility.
- Any person who provides care and supervision to the children.
- Any staff person, volunteer, or employee who has contact with the children.
 - ✓ A volunteer providing time-limited specialized services shall be exempt from the requirements of this subdivision if this person is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the volunteer spends no more than 16 hours per week at the facility, and the volunteer is not left alone with children in care.
 - See California Code of Regulations Section 101170(b) for individuals that are exempt from fingerprint requirements.

See answers to question #29 and #30 for more information about criminal record requirements.

36. If office staff person who never goes on-site does not pass criminal background check---are they to be dismissed from position?

Answer:

See answers to question #29, #30 and #35 for information about criminal record requirements.

Also, there are relevant Head Start requirements, including a Program Information Memorandum on background checks – (PI 09-05), which states in part:

"In accordance with Section 648A (g) (3) of the Head Start Act, 42 U.S.C. 9843A (g) (3), Head Start and Early Head Start agencies must obtain before employment for all prospective Head Start and Early Head Start employees the results from at least one of the following: A State criminal record check which covers all jurisdictions where the grantee provides Head Start services to children; or:

- A Tribal criminal record check which covers all jurisdictions where the grantee provides Head Start services to children; or
- A Federal criminal record check conducted by the Federal Bureau of Investigation (FBI); or
- Another criminal record check as provided by Section 648A (g) (3) (A)–(C)."

The PI doesn't distinguish between center-based staff vs. administrative staff. We've advised grantees that all HS/EHS staff, regardless of position or whether they come into contact with kids, must have the check done. The PI goes on to describe what programs should do with the information.

37. Are speech therapists required to have criminal record clearance & child abuse central Index checks with Head Start licensed site in addition to the Local Education Agency (LEA)? This is difficult to implement as the LEA may change the speech therapist assigned to the site on a frequent basis.

Answer:

Title 22, Section 101170(b)(6)-(8), Criminal Record Clearance, describes the types of individuals who are exempt from criminal record clearances with the Department.

- A medical professional, as defined in Section 101152(m)(1), who holds a valid license or certification from the individual's governing California medical care regulatory entity if all of the following apply:
 - ✓ The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
 - ✓ The individual is providing time-limited specialized clinical care or services.
 - ✓ The individual is providing care or services within the individual's scope of practice.
 - ✓ The individual is not a community care facility licensee and is not employed, retained, or contracted by the licensee.
- Employees of a licensed home health agency who have a contract with a child's parent or guardian and are in the facility at the request of that parent or guardian.
 - ✓ The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.
- An attendant or facilitator for a child with a developmental disability who is visiting the child or providing direct care and supervision to the child.
 - ✓ The exemption shall not apply to an individual who is employed, retained or contracted by the licensee.

If you are unsure whether an individual requires a criminal record clearance, it is always a good idea to contact your LPA for direction.

See answers to question #29, #30, #35 and #36 for information about criminal record requirements.

38. Individuals seeking criminal record exemption: It is my understanding that individuals can apply to CCLD for a criminal exemption. However, when we refer an applicant to CCLD they often call us back saying that CCLD told them the employer has to request the exemption.

Answer:

To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 101170.1(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption (**Title 22 Regulations Section 101170.1(d), Criminal Record Exemption**).

Exemption procedures and more information regarding fingerprinting requirements/background check process, can be found on the CCLD website, under the "Fingerprinting" tab at the top of the webpage.

DEFICIENCIES & UNUSUAL INCIDENTS QUESTIONS

39. Does the agency have an opportunity to clear a Type A deficiency thus eliminating the A deficiency requirements?

Answer:

Yes, any person may request a review of a licensing decision against him/her within 10 working days of receipt of the written decision unless an administrative action pursuant to the California Administrative Procedure Act has commenced against the person. The reviewer may uphold, amend or dismiss the licensing decision or may extend the date specified for the correction of a deficiency (**Title 22 Regulations Section 101196(a), Review of Licensing Decisions**).

40. Please let us know what constitutes a type "A" deficiency?

Answer:

Title 22 Regulations Section 101152(s)(3) Definitions, serious deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the children in a child care center.

Type A: Immediate Health, Safety or Personal Rights Impact - Are violations of the regulations and the Health and Safety Code that, if not corrected, have a direct and immediate risk to the health, safety or personal rights of those in care. Citations for these violations will always be issued even if the violation is corrected during the site visit (corrections will be noted on the licensing report). In some instances, violations of these types of regulations may present such a severe threat that it would require suspension or revocation of a license. In all cases the licensee must initiate corrective action to render the situation harmless as soon as possible. In most instances, full compliance is to be completed on the spot or within a 24-hour period. However, in some instances the final correction may be extended for up to 30 days if the licensee has initiated corrective action to minimize or eliminate the health and safety risk, the facility has a history of compliance, or other factors such as transfer trauma and the availability of an alternate placement. The Licensing Program Analyst must first consider these elements prior to granting an extension for the date of correction. (**Evaluator Manual Section 3-4200**)

41. What kind of timelines are LPAs supposed to adhere to (i.e. in response to unusual incidents, appeals, and complaint investigations)?

Answer:

Health and Safety Code Section 1596.844, the department shall acknowledge in writing within 10 days of receipt, the request of a licensee to review notices of deficiency or penalty, or both.

Health and Safety Code Section 1596.853(c), upon receipt of a complaint, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, the department shall make an onsite inspection within 10 days after receiving the complaint, except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies. In either event, the complainant shall be promptly informed of the department's proposed course of action. If the department determines that the complaint is without a reasonable basis, then the complaint shall be marked confidential and shall not be disclosed to the public. The child-care provider shall be notified in writing within 30 days of the dismissal that the complaint has been dismissed.

Unusual incidents which are reported to the licensing agency are evaluated for level of seriousness and followed-up on as determined necessary and appropriate on a case by case basis.

42. What if CCLD personnel don't respond to our appeal process? How do we proceed?

Answer:

Contact your local Licensing Regional Manager.

Pursuant to **Health and Safety Code Section 1596.842(b)**, initial appeal rights are:

- The right, without prejudice, to appeal any decision, any failure to act according to law or regulation, or any failure to act within any specified timeline, through the licensing agency up to the deputy director.
- The right to request a meeting with district office administrators to discuss any licensing issue and with notice to bring any person to the meeting.
- The right to due process and the option of bringing a representative to any administrative action.
- The right to file a formal complaint, and receive a written response to that complaint within 30 days, for any licensing issue not covered by subdivision (b), including, but not limited to, inappropriate behavior of department employees.

43. Required reporting: Are threats against staff considered to be unusual incidents and what are examples of unusual incidents (referring to staff) that need to be reported?

Answer:

Title 22 Regulations Section 101212(d), Reporting Requirements, upon the occurrence, during the operation of the child care center of any of the events specified in (d)(1) below, a report shall be made to the Department by telephone or fax within the Department's next working day and during its normal business hours. In addition, a written

report containing the information specified in (d)(2) below shall be submitted to the Department within seven days following the occurrence of such event.

- As specified in Section 101212(d)(1), events reported shall include the following:
 - ✓ Death of any child from any cause.
 - ✓ Any injury to any child that requires medical treatment.
 - ✓ Any unusual incident or child absence that threatens the physical or emotional health or safety of any child.
 - ✓ Any suspected physical or psychological abuse of any child.
 - ✓ Epidemic outbreaks.
 - ✓ Poisonings.
 - ✓ Catastrophes.
 - ✓ Fires or explosions that occur in or on the premises.

Any unusual incident that jeopardizes the health and safety of children should be reported as required. Threats against staff could also be a threat to the health and safety of children and should be reported to licensing accordingly.

44. Unusual Incident Report: Is it appropriate to be used for all incidents/accidents?

Answer:

See answer for question #43.

45. If an appeal is “accepted” and the Type A deficiency is cleared---are grantees still required to inform newly enrolled parents for the next 12 months?

Answer:

Health and Safety Code Section 1596.859, 1596.8595, 1596.8895 and 1597.05, requires licensees to post and give to parent/guardian copies of Type A violations.

See question #42 for initial appeal rights.

46. If home based Head Start uses a Head Start center classroom for “Socialization Day” and parents are required to attend with their child, do licensing regulations apply? Do licensing regulations apply when use of church room, library room or community center room are used for socialization day? (These are unlicensed sites)

Answer:

A trip to a Head Start center classroom where parents are in attendance, is not subject to compliance with Title 22 regulations and the Health and Safety Code.

Health and Safety Code, Section 1596.792(k) specifies that licensing requirements do not apply to any arrangement for the receiving and care of children by a relative and any child day care program that offers temporary child care services to parents and that satisfies both of the following:

- The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.
- The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

However, this applies only when *all children in care have a parent or authorized representative onsite*. If not, it would be treated like a field trip. During field trips, the licensee must ensure that appropriate care and supervision is provided at all times as required by regulations.

47. When a citation is given to a site, would it be sufficient to post a copy, or do CCLD require each parent to be given a copy?

Answer:

Health and Safety Code Section 1596.859, 1596.8595, 1596.8895 and 1597.05, requires licensees to post and give to parent/guardian copies of Type A violations.

CARE AND SUPERVISION QUESTIONS

48. Clarify: In a nap room what constitutes direct supervision of children? When a child uses the restroom out of view of a teacher (restroom stall), is the child considered unsupervised? Are bathroom doors (stalls) required or not required?

Answer:

Title 22 Regulations require that no children shall be left without the supervision of a teacher at any time, except as specified in Sections 101216.2(e) (1) and 101230 (C) (1). Supervision shall include visual observation. That means in the same room. There is no regulatory requirement for restroom stall doors. Unless a child needs assistance with toileting, visual observation while toileting is not necessary. An aide who is 18 years or older, and who meets the requirements of section 101216, may escort and/or assist children in going to the bathroom, and may supervise napping children as specified in Section 101230(c)(1) without being under the direct supervision of a teacher .

49. How can we ensure safety of children (not leaving premises) when the fire marshal insists gates remain unlocked & licensing wants them locked?

Answer:

Title 22 Regulations Section 101229, Responsibility for Providing Care & Supervision, the licensee shall provide care and supervision as necessary to meet the needs of the children. No children shall be left without the supervision of a teacher (or aide under supervision of a teacher) at any time.

Title 22 Regulations Section 101238.2(g), Outdoor Activity Space, the playgrounds shall be enclosed by a fence to protect children and to keep them in the outdoor activity area.

Title 22 Regulations Section 101223(a)(6)(A) and (B), Personal Rights, not to be locked in any room, building or center premises by day or night. The licensee is not prohibited by this provision from locking exterior doors and windows or from establishing rules for the protection of children provided the children are able to exit the center. The licensee shall obtain prior approval from the Department to utilize means other than those specified in (A) above for securing exterior doors and windows.