DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION ADMINISTRATIVE CODE

CHAPTER 660-5-26
DAY CARE LICENSURE - CHILD CARE LICENSING AND PERFORMANCE STANDARDS FOR DAY CARE CENTERS AND NIGHTTIME CENTERS

660-5-26-.01 Definitions.

In the context of these regulations, the following definitions apply.

(1) Adult. Any person 19 years of age or older.

(2) Aide. A person who does not meet the qualifications of a child care worker/teacher, works under the direct supervision of a qualified child care worker/teacher and is not counted in the required staff-child ratios.

(3) Bio Contaminants. A living organism or product that can harm animals or humans if inhaled, swallowed or otherwise absorbed into the body.

(4) Character and Suitability. The person maintains business, professional, family, and community relationships which are characterized by honesty, fairness, truthfulness, and concern for the well-being of others to the extent that the person is considered suitable to be entrusted with the care, guidance, and protection of children.

(5) Child. Any person under 19 years of age.

(6) Child Abuse and Neglect. According to the Code of Ala. 1975, Section 26-14-1, abuse is defined as harm or threatened harm to a child's health or welfare. Harm or threatened harm to a child's health or welfare can occur through nonaccidental physical or mental injury, sexual abuse or attempted sexual abuse or sexual exploitation or attempted sexual exploitation. "Sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in any sexually explicit conduct or any simulation of the conduct for the purpose of producing any visual depiction of the conduct; or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children as those acts are defined by Alabama law. "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes. Neglect is defined as negligent treatment or maltreatment of a

child, including the failure to provide adequate food, medical treatment, supervision, clothing or shelter.

(7) Child Care Worker/Teacher. A person having primary responsibility for the care of a group of children and meeting the specified qualifications, who may be counted in the required staff-child ratio while he/she is giving direct care to the children.

(8) Commissioner. The Commissioner of the Alabama State Department of Human Resources.

(9) Day Care Center. In the context of these regulations, day care shall begin no earlier than 5 a.m. Nighttime care shall begin at 7 p.m. Additional requirements for centers operating after 7 p.m. and for centers operating past midnight can be found in Rule 660-5-26-.09. A day care center is defined in the Code of Ala. 1975, Section 3-7-2, (4) as follows. Any child-care facility receiving more than twelve (12) children for daytime care during all or part of a day. The term includes, but is not limited to, facilities commonly called "child-care centers", "day nurseries", "nursery schools", “pre-kindergartens,” “preschools,” "kindergartens", and "play groups", with or without stated educational purposes. The term further includes, but is not limited to, pre-kindergarten, preschool, kindergarten or nursery schools or other daytime programs operated as a part of a private school and receiving children younger than lawful school age for daytime care for more than four hours a day, with or without stated educational purposes. The term does not include any of the following:

(a) Kindergartens or nursery schools or other daytime programs operated by public elementary systems or secondary level school units or institutions of higher learning;

(b) Kindergartens or nursery schools or other daytime programs, with or without stated educational purposes, operating no more than four hours a day and receiving children younger than lawful school age.

(c) Kindergartens or nursery schools or other daytime programs operated as a part of a private school and receiving children younger than lawful school age for four hours a day or less, with or without stated educational purposes;

(d) Facilities operated for more than four hours a day in connection with a shopping center or service or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available; provided, however, that

such facilities shall meet local and state fire and health requirements;

(e) Any type of day care center that is conducted on federal government premises; or

(f) Special activities programs for children of lawful school age including, but not limited to, athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations; provided, however, that local and state fire and health requirements are met.

(10) Department. The State or County Department of Human Resources.

(11) Department's Representative. An employee or designee of the State or County Department of Human Resources, acting as the authorized agent of the Commissioner in carrying out the responsibilities and duties specified in Code of Ala. 1975.

(12) Director or Center Director. The staff person responsible for the day to day operation and management of the center including supervision of the planning and implementing of the children's daily activities and supervision of staff.

(13) Early Intervention Services Staff/Vendors. A person employed by the Alabama Department of Rehabilitation Services or a vendor thereof, who provides direct services to children in licensed centers. Early intervention services may include, but are not limited to, any developmental delay of twenty-five per cent in any developmental area, speech therapy, hearing, vision, physical therapy, occupational therapy, or other services. Service providers are not considered center staff and are not required to have a record on file at the center. When the services are provided to a child in a licensed child care center, the individual shall present photographic identification verifying employment with the Department of Rehabilitation Services or the Vendor thereof and a copy of their suitability letter documenting that a criminal history background check has been performed and the individual has been determined suitable.

(14) Facility for Child Care or Child-Care Facility. A facility established by any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in this chapter, established and maintained for the care of the children.

(15) Group Size. The term group size is determined by the capacity of the room, age of the child, number of staff, and amount of equipment.

(16) Lawful School Age. For purposes of these regulations, this term includes children who are five (5) years of age on or before September 1, (or the date on which school begins in the enrolling district pursuant to Code of Ala. 1975, §16-28-4) of a given year. This definition corresponds with the minimum age at which a child is entitled to admission to public school kindergarten.

(17) Licensee. Any person, group of persons, or corporation, to whom the license, permit, or approval is issued.

(18) Night Care Facility. A child-care facility which is a center or a family home receiving a child or children for care after 7:00 p.m. Additional requirements for centers operating after 7 p.m. and for centers operating past midnight can be found in Rule 660-5-26-.09.

(19) Nighttime Center. A facility which is established to receive more than 12 children for nighttime care after 7:00 p.m. Additional requirements for centers operating after 7 p.m. and for centers operating past midnight can be found in Rule 660-5-26-.09.

(20) Parent(s)/Guardian(s). The parent(s) or legal guardian(s) or legal custodian, of the child enrolled or in the process of being enrolled in a child care center.

(21) Resource Person. A person who visits the center for the purpose of enhancing the program, has no direct responsibility for the care of the children, is not counted in the required staff-child ratios, is constantly supervised by staff and is never alone with a child or children.

(22) Special Education Services Staff. Personnel employed by the Alabama Department of Education or local school system who provide special education services to children in licensed centers and are certified teachers or certified therapists. Special education services may include but are not limited to speech therapy, physical therapy, occupational therapy or other services specified in an Individualized Education Plan (IEP). Special Education Services Staff are not considered center staff and are not required to have a record on file in the center. When Special Education Services Staff provide services to a child in a licensed child care center, the individual shall present photographic identification verifying employment with the Department of Education or the local school board and a copy of their suitability letter, documenting that a criminal history background check has been

performed by the Department of Education and the individual has been determined suitable.

(23) Staff or Center Staff. Administrative, program, or service personnel, whether paid or unpaid, including the licensee when the licensee is an individual. Special Education Services Staff and Early Intervention Services Staff and Vendors are excluded from this definition, provided they meet the requirements stated in 660-5-26-.01 (12) and (21).

(24) Supervision. Responsibility for each child and accountability for his/her care by giving direct and full attention to the children.

(25) Universal Precautions. Safety procedures established to reduce the spread of infectious disease through blood and bodily fluids.

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Statutory Authority: Code of Ala. 1975, as amended (hereinafter referred to as Code), §§38-7-1 through 38-7-18, §§41-22-19, §§38-2-6(10), (12), (13), (15), §§26-14-3, §§26-14-4.
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