

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-.07      Character And Suitability.

(1) Character and Suitability Review. All applicants, board members (if applicable), and holders of a license, holders of a six-month permit, or approval to operate a child care center, all applicants for employment or volunteer services, and all current staff persons, employees, and volunteers, shall be of suitable and good moral character in order to operate or work in a child care center. All applicants, board members (if applicable), operators, owners, licensees, center directors, staff persons, employees and volunteers shall be investigated to determine their character and suitability to hold a license, permit, or approval to operate a child care center, or to work, or perform volunteer services in a child care center.

(a) For purposes of these regulations, an applicant for a license or approval to operate a child care center, or the holder of an existing license, permit, or approval to operate a child care center includes the individual applicant or holder of a license, permit, or approval to operate as well as all board members and officers of corporations, partnerships, associations, or other legal entities who have direct contact with the children in care or unsupervised access to children.

(b) Information regarding the character and suitability of applicants for a license or approval to operate a child care center, shall be reviewed by the Department at the time of the initial application for a license or approval to operate. Subsequent character and suitability reviews may be conducted at any time at the discretion of the Department. This information must be updated every five (5) years.

(c) Evidence that an applicant or holder of a license, six-month permit, or approval to operate lacks the required good character or is otherwise not a suitable person to operate a child care center may be the basis for the denial of an initial application, denial of an application for renewal, denial of renewal of approval to operate, suspension or revocation of a license, six month permit, or approval to operate.

(d) The holder of a license, permit, or approval to operate or their authorized designee, such as, but not limited to, the center director, shall review information regarding the

character and suitability of all applicants being considered for employment or volunteer work and all current staff persons, employees and volunteers and make a determination whether they are of suitable character to be employed or perform volunteer services in a child care center.

(e) The holder of a license, permit, or approval to operate, or their authorized designee, such as, but not limited to the center director, shall conduct a review as set out below, of all current staff persons, employees and volunteers as instructed by the Department.

(f) A review shall also be conducted on all applicants for employment or volunteer services, in a position that has contact with children or unsupervised access to children.

(2) Factors to be considered in determining character and suitability shall include, but need not be limited to:

(a) References.

1. Applicants/Center Directors/Board Members (if applicable).

(i) Applicants for a license or approval to operate shall furnish the names of at least three (3) individuals who are not related to the applicant by blood, marriage, or adoption who can attest to the good character and suitability of the applicant. The names, addresses, and telephone numbers of the three references shall be furnished to the Department at the time the initial application is submitted. The Department reserves the right to contact additional sources who can attest to the applicant's character and suitability, community reputation, work history, and suitability to care for children.

(ii) Center Directors shall furnish the names of at least three (3) individuals who are not related to the director by blood, marriage, or adoption, who can attest to the good character and suitability of the individual. The names, addresses, and telephone numbers of the three references shall be furnished to the Department at the time the initial application is submitted or at the time of employment. The Department reserves the right to contact additional sources who can attest to the Director's character, community reputation, work history, and suitability to care for children.

(iii) All information obtained on applicants, board members, and center directors shall be maintained by the Department.

## 2. Staff.

(i) For each staff person, employee, and volunteer, as well as any person who has contact with the children in care or unsupervised access to children, at least three (3) written reference letters (see Appendix E., page 80, for required form) from individuals not related to the person by blood, marriage, or adoption, shall be obtained by holders of a license, permit, or approval to operate a child care center, or their designee, attesting to the person's character, community reputation, work history, and suitability to care for children.

(ii) The holder of the license, permit, or approval, or their designee shall maintain all information obtained on staff persons, employees and volunteers in the person's file in the center.

## (b) Clearance of State Central Registry on Child Abuse/Neglect

1. Applicants/Board Members (if applicable) - A completed request for clearance of the State Central Registry on Child Abuse/Neglect shall be submitted to the Department on the required form (Alabama Department of Human Resources Request for Clearance of State Central Registry on Child Abuse/Neglect, DHR-DFC Form 1598), for each applicant for a license or approval to operate a child care center. Results of the request for clearance shall be maintained as part of the Department's records.

2. Center Directors - A completed request for clearance of the State Central Registry on Child Abuse/Neglect shall be submitted to the Department on the required form (Alabama Department of Human Resources Request for Clearance of State Central Registry on Child Abuse/Neglect, DHR-DFC Form 1598), for each director of a center for which an application for a license or approval to operate is submitted. Results of the request for clearance shall be maintained as part of the Department's records.

3. Staff - A completed request for clearance of the State Central Registry on Child Abuse/Neglect for each staff person, employee, volunteer, as well as any person who has contact with the children in care or unsupervised access to children, shall be submitted to the Department on the required form (Alabama Department of Human Resources Request for Clearance of State Central Registry on Child Abuse/Neglect, DHR-DFC Form 1598), by holders of a license, permit or approval to operate or by their authorized designee, such as but not limited to the

center director. The results of the request for clearance shall be maintained in the person's file in the center.

4. All applicants/board members, center directors and staff must request a supplemental clearance of inter-state child abuse and neglect registry if the individual has lived in another state within the past five (5) years.

(c) Criminal History Background Information Checks.

1. The criminal history of individuals shall be reviewed and shall be a factor in determining the character and suitability of individuals to hold a license, six-month permit, or approval, or to work in a child care center. All applicants for a license or approval and staff persons, employees, volunteers, and applicants for employment or volunteer work, shall reveal on their application, all past criminal convictions and current charges. The holder of a license, permit, or approval, the center director or administrator of the center shall inform the Department of all criminal convictions and current criminal charges on themselves and staff persons, employees, and volunteers that occur after a license, permit, or approval to operate has been obtained. Staff persons, employees and volunteers shall inform the holder of a license, permit, or approval, their authorized designee, or the center director of all criminal convictions and current charges which occur during the course of their employment or volunteer service.

2. Upon receipt of a determination of unsuitability, the affected individual shall be terminated from employment or volunteer work in the center.

3. The Department shall suspend or revoke the license or deny the initial application or the application for renewal if the applicant/licensee, staff person, employee, volunteer, or another person in the center receives a determination of unsuitable character.

4. If a suitability determination letter is received by the licensee from the Department's Criminal History Check Unit stating an individual is suitable for employment based on the absence of any disqualifying convictions, the licensee shall make his or her own determination regarding employment or volunteer work. No right to employment is created by the issuance of a letter stating an individual is suitable for employment.

5. The licensee shall inform the Department of any criminal convictions and current criminal charges involving the licensee, staff, employees, volunteers and

other persons who have contact with the children or unsupervised access to the children, which occur after a license, permit, or approval is obtained. Such reports shall be made within 24 hours and followed by a written report within five (5) days. This information shall be kept on file by the Department.

6. The Department of Human Resources shall not be responsible for the payment of any fees required for obtaining criminal history information.

7. The criminal history background check must include the following suitability components.

(i) National FBI Criminal history check with fingerprints

(ii) National Crime Information Center (NCIC), National Sex Offender Registry

(iii) In-State criminal history check with fingerprints

(iv) In-State sex offender registry check

(v) Inter-state criminal history check if individual has lived in another state within the past five years

(vi) Inter-State sex offender registry check if the individual has lived in another state within the past five years

8. Pending completion of all required background check components applicant/board members, center directors, and staff cannot be counted in the child/staff ratio.

(d) Evidence of Unsuitable Character

1. Examples of evidence which may make an applicant for a license or approval to operate; a holder of a license, permit, or approval to operate; a staff person, employee, volunteer, or an applicant for employment or volunteer services, unsuitable to hold a license, permit, or approval or to work in a child care center, or have contact with the children or unsupervised access to children shall include but are not limited to the following:

(i) Any felony conviction in this or any other state;

(ii) Theft and other financial crimes related to business activities;

- (iii) Misdemeanor convictions in this or any other state;
- (iv) Operating a motor vehicle while under the influence of or while impaired by the use of intoxicating liquor or drugs;
- (v) Offenses involving the reckless operation of a motor vehicle at an excessive speed;
- (vi) A crime involving the possession of a controlled substance;
- (vii) Operating a child care facility without a license, permit, or exemption;
- (viii) Refusal to cease operations of an unlicensed child care facility;
- (ix) A history of consistent failure to maintain standards while operating a child care facility;
- (x) Refusal or failure to cooperate in any Department investigation or inspection;
- (xi) Making false or misleading statements or reports to the Department;
- (xii) Past history of the individual regarding his/her truthfulness;
- (xiii) The individual's ability to care for children;

2. Indicated (found or substantial) reports of adult or child abuse/neglect with or without criminal convictions, in this or any other state.

3. Evidence in item (1), (a) through (m) and item (2) above, will be evaluated to determine whether or not it constitutes a danger to the children based on the seriousness of the crime, the existence of extenuating circumstances, the propensity to recommit the crime, and evidence of rehabilitation since the crime was committed.

4. An application for a license shall be denied or a license, permit, or approval shall be suspended or revoked if the applicant/licensee, center director, staff person, employee, or volunteer is determined to be of unsuitable character to work with children, to have contact with children or to have unsupervised access to children.

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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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