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## Title 28 EDUCATION

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# Title 28 EDUCATION

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

### Chapter 1. General Provisions

#### §101. Purpose and Authorization

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.32.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 44:1858 (October 2018).

#### §103. Definitions

*Academic Approval*—verification by the department that a type III early learning center is meeting the performance and academic standards required in *Bulletin 140—The Louisiana Early Childhood Care and Education Network*.

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

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

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

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

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

*Bus Monitors*—staff with specific transportation-related responsibilities that include assisting the driver in ensuring

the safety of children while they ride in, board, or exit a vehicle, and during transportation emergencies.

*CCCBC*—child care criminal background check.

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

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

*Center*—see *early learning center*.

*Center Staff*—see *staff*.

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

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

*Child*—person who has not reached age 13, or a person with special needs who has not yet reached age 18.

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

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

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

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

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*Child Day Care Center*—in accordance with R.S. 17:407.33(3), any place or center operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week.

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

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

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

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

*Clock Hour*—60 minutes.

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

*DAL*—Division of Administrative Law.

*DCFS*—Department of Children and Family Services.

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

*Department*—Department of Education.

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

*Direct Supervision*—see *supervision*.

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

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

*Discipline*—see *behavior management*.

*Disqualification Period*—the prescriptive period during which a center shall not be qualified to submit an application for licensure after its license has been revoked, renewal has

been refused or its license has been surrendered to avoid adverse action due to failure to comply with licensing laws, regulations or minimum standards.

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

*Early Learning Staff*—see *staff*.

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

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

*Federal Food and Nutrition Programs*—federal nutrition reimbursement programs funded by the U.S. Department of Agriculture through the department.

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

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

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

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

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

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

*Key Orientation Training Module 1*—a self-paced, online training provided by the department for new early learning staff that addresses early childhood professionalism, health and safety, licensing and hazards.

*Key Orientation Training Module 2*—a self-paced, online training provided by the department for new early learning

staff that addresses child development, early learning and development standards (ELDS), and learning activities.

*Key Orientation Training Module 3*—a self-paced, online training provided by the department for new early learning staff that addresses teacher-child interaction, child guidance, and classroom management.

*LDH*—Louisiana Department of Health.

*License*—any license issued by the department to operate an early learning center.

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

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

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

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

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

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

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

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

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

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

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

*Parent*—parent or legal custodian.

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

*Prekindergarten Programs*—

1. per R.S. 17:24.8(A), the youngest age at which a child may enter prekindergarten at a local public school is four years on or before September 30 of the calendar year in which the school year begins;

2. per R.S. 17:24.8(B), the youngest age at which a child may enter prekindergarten at a BESE-approved nonpublic school is 3 years old by September 30 of the year in which the child enrolls in prekindergarten.

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

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

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

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

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

*Special Needs Care*—for licensing purposes, child care for a child birth through age 17 who has a current individualized family services plan (IFSP) or individual education plan (IEP) in accordance with the Individual's with Disabilities Education Act (IDEA) or who receives supplemental security income (SSI).

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

*Staff-in-Charge*—the on-site staff member appointed by the director as responsible for supervising the operation of

the center during the temporary absence of less than 11 consecutive business days of the director or during nighttime hours.

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

*State Superintendent*—Louisiana state superintendent of education.

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

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

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

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

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

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

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

*Visitor*—anyone who enters an early learning center other than the parent of an enrolled child, center staff, volunteers, extracurricular personnel, therapeutic professionals and other independent contractors, and in the case of a church or

school, any other routine employees, including but not limited to a pastor, principal or teacher.

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

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

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

*Written*—includes hard-copies and electronic form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:638 (April 2017), LR 44:247 (February 2018), effective March 1, 2018, LR 44:1858 (October 2018), LR 47:1274 (September 2021).

## Chapter 3.Licensure

### §301. Requirement of Licensure

A. All early learning centers shall be licensed prior to beginning operations in Louisiana.

B. A prekindergarten program operated by a public school serving children in grades kindergarten and above, and in which all children have not reached age 4 by September 30 of the current school year, shall be licensed.

C. A prekindergarten program operated by a private school serving children in grades kindergarten and above, and in which all children have not reached age 3 by September 30 of the current school year, shall be licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.34 and R.S. 17:407.24.8.

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

### §303. Exemptions from Licensure

A. A public or non-public day school serving children in grades kindergarten and above, including any pre-kindergarten attached thereto, except as provided in §301.B and C, is exempt from the provisions of this bulletin.

B. Camps and all care given without charge are exempt from the provisions of this bulletin.

C. A center operated by a recognized religious organization that is qualified as a tax-exempt organization under §501(c) of the *Internal Revenue Code* and that does not operate more than 24 hours in a continuous 7-day week shall not be considered an early learning center for purposes of this bulletin.

D. Nothing in this bulletin shall apply to children in programs licensed or operated by the Louisiana Department of Health (LDH) or the Department of Children and Family

Services (DCFS), and the United States Department of Defense.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.35.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, LR 47:1275 (September 2021).

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

A. Operating an early learning center without a valid license may result in fines imposed by the department to a maximum of \$1,000 per day for each day of such offense.

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

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.37.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015), LR 44:1859 (October 2018), LR 45:525 (April 2019).

### **§307. Types of Licenses**

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

1. Grandfathering Clause. A “type I license” is also the type of license issued to any early learning center holding a “class B” license on October 1, 2014, provided the center receives no state or federal funds directly or indirectly from any source. “Class B” licenses held by other than tax exempt church or religious organizations on October 1, 2014 shall be grandfathered in as type I centers for the life of the existing license. However, if a type I license held by other

than a tax exempt church or religious organization expires, is revoked, or is terminated for any reason, or if a new license is required for any reason, including but not limited to a change in location or ownership, the center shall not be eligible for a new type I license and shall apply for either a type II or type III license.

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

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

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

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

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.36.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, amended LR 44:1859 (October 2018).

### **§309. Term of License**

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.39(A).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, amended LR 44:1859 (October 2018).

### **§311. Posting of License**

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

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

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

**§313. Annual Licensure Fee**

A. There shall be an annual licensure fee for each early learning center based on the licensed capacity of the center.

B. Annual Licensure Fees

Licensed Capacity	Annual License Fee
15 or fewer children	\$25
16-50 children	\$100
51-100 children	\$175
101 or more children	\$250

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

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

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

**§315. Inspections**

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

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

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

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

E. The department shall post results of inspection reports online.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015, amended LR 44:1859 (October 2018).

**§319. Waivers**

A. The state superintendent, pursuant to authority delegated by BESE, may, in specific instances, waive compliance with a minimum standard or regulation if it is determined that the economic impact is sufficiently great to

make compliance impractical, as long as the health and well-being of staff and children are not imperiled. If it is determined that the center or agency is meeting or exceeding the intent of the standard or regulation, the standard or regulation may be deemed to be met.

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

C. An application for a waiver and all supporting documentation shall be submitted in writing to the department using the request for waiver form.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:620 (April 2015), effective July 1, 2015, amended LR 44:1859 (October 2018).

**Chapter 5. Ownership of Early Learning Centers**

**§501. Definitions**

*Corporation*—any entity incorporated in Louisiana, or incorporated in another state and registered with the secretary of state in Louisiana, and legally authorized to do business in Louisiana.

*Individual Owner*—a natural person who directly owns a center without setting up a juridical entity.

*Juridical Entity*—a corporation, partnership, limited-liability company, church, university or governmental entity.

*Natural Person*—a human being.

*Ownership*—the right that confers on a person direct, immediate and exclusive authority over a thing. The owner of a thing may use, enjoy and dispose of it within the limits and under the conditions established by law.

1. *Direct Ownership*—when the immediate owner is a natural person who exercises control personally rather than through a juridical entity.

2. *Indirect Ownership*—when the immediate owner is a juridical entity.

*Partnership*—any general or limited *partnership* licensed or authorized to do business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq., R.S. 17:407.41, and R.S. 17:407.42.

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

### §503. Individuals and Entities as Owners for Licensing Purposes

A. Individuals by organizational type who are considered owners for licensing purposes:

1. *individuals*—*individual* and spouse, unless the business is the separate property of the licensee acquired before his or her marriage, acquired through a judicial separation of property agreement or acquired via a judicial termination of the community of aquets and gains;

2. *partnerships*—all limited or general partners and managers, including but not limited to all persons registered as limited or general partners in the Secretary of State’s Corporations Division;

3. *head start centers*—individual responsible for supervising center directors;

4. *church-owned, government entity, or university-owned*—any clergy member or board member that is present in the early learning center during the hours of operation or when children are present. Clergy or board members not present in the early learning center shall complete a statement attesting to such;

5. *corporations (includes limited liability companies)*—

a. any person who has 25 percent or greater share in the ownership or management of the business; or

b. any person who has less than a 25 percent share in the ownership or management of the business and meets one or more of the following criteria:

i. has unsupervised access to the children in care at the center;

ii. is present in the center during hours of operation;

iii. makes decisions regarding the day-to-day operations of the center;

iv. hires or fires staff including the director; or

v. oversees staff or conducts personnel evaluations of the staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq., R.S. 17:407.41, and R.S. 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:621 (April 2015), effective July 1, 2015.

## Chapter 7. Licensing Process and Procedures

### §701. Initial Application Process

A. Forms. Applications for licensure of new early learning centers shall be submitted using the department’s online electronic system.

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

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

#### D. Review of Licensing Packet

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

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

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

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

2. If the application is complete, the department will notify the applicant and will request the Office of State Fire Marshall, city fire (if applicable), Louisiana Department of Health, and the academic approval section to make an inspection of the center, as per agency standards. However, the applicant is responsible for obtaining the required inspections and approvals.

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

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

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

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

1. Office of State Fire Marshal approval;
2. Office of Public Health approval;
3. city fire approval, if applicable;
4. zoning approval/certificate of occupancy, if applicable;

5. academic approval by the department, if it is a type III center;
6. full licensure fee paid;
7. licensure inspection verifying compliance with all minimum standards;
8. CCCBC-based determination of eligibility for child care purposes from the department for all owners, operators, and staff; and
9. written documentation establishing ownership of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015), LR 44:248 (February 2018), effective March 1, 2018, LR 44:1860 (October 2018), LR 47:1275 (September 2021).

**§703. Initial Inspection Process**

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

1. If the center in operation is in violation of the law, the application may be denied, and the department may pursue appropriate legal remedies.

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

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

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

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:248 (February 2018), effective March 1, 2018, LR 44:1860 (October 2018), LR 47:1275 (September 2021).

**§705. Access**

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

B. Departmental staff shall:

1. not view video recordings for annual inspections;
2. only be allowed to view video recordings as part of an investigation of a complaint or incident:

a. in order to view a video recording for a complaint or incident, departmental staff shall provide in writing information about the complaint or incident, including the approximate date, time, location and description;

3. be allowed to interview any center staff personnel deemed necessary by the department;

4. be admitted into a center immediately and without delay and shall be given free access to all areas of a center, including its grounds;

5. be permitted to verify that no children are present in that portion of the center and that such private areas are inaccessible to children if any portion of a center is set aside for private use by an owner of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.43.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 44:248 (February 2018), effective March 1, 2018, LR 44:1860 (October 2018).

**§707. Fees**

A. All fees shall be paid to the Louisiana Department of Education through its electronic payment system and are nonrefundable.

1. Administrative Fees

a. An administrative fee of \$25 shall be submitted with each application for initial licensure. This fee shall be applied toward the total licensure fee, which is due prior to the issuance of an initial license, if applicable.

b. An administrative fee of \$25 shall be submitted for any change that requires the issuance of a new license or the reissuance of a current license outside of the regular renewal of the license. Some examples include changes in capacity, name, age range, and transportation.

c. An administrative fee of \$5 is required to issue a duplicate license with no changes.

d. All early learning centers are required to pay administrative fees.

## 2. Annual Licensure Fees

a. The full licensure fee based on licensed capacity, as provided in §313, shall be submitted prior to the issuance of an initial license and shall be submitted with all renewal applications.

b. The full licensure fee based on licensed capacity shall be submitted with an application for a change of ownership, location or type of license.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 44:248 (February 2018), effective March 1, 2018.

### §709. Validity of Licenses

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

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

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

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

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

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

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

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

I. A single license may be issued for a center with multiple buildings at the same location at the sole discretion of the LDE.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6, 17:407.39(C), and 17:407.40.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016), LR 44:1861 (October 2018), LR 47:1275 (September 2021)..

### §711. Renewal Applications

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

B. An application for renewal of a license shall be submitted using the department's online electronic system.

C. Each center is solely responsible for timely completing the online license renewal application. Notice of time for renewal shall not be sent by the department.

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

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6, 17:407.40, and 17:407.43.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 44:1861 (October 2018).

### §713. Renewal and Other Inspection Procedures

A. Annual licensing inspections by the department, current approvals by the Office of Public Health, Office of State Fire Marshal, and city fire (if applicable), and academic approval by the department (if type III center) shall be required before the expiration of an existing license. However, if a center has documentation establishing that the center requested an inspection by the Office of Public Health or the Office of State Fire Marshal prior to the expiration of the existing license, these approvals may be submitted to the department within 90 calendar days of the date of the license renewal.

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

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

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

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

C. The director/director designee/staff-in-charge shall have an opportunity to review inspection deficiencies (if any) in consultation with departmental staff.

1. If the director/director designee/staff-in-charge is not present at the center or is unable or unwilling to review the inspection deficiencies, the departmental staff shall review with any staff at the center.

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

#### D. Licensing Deficiency Review

##### 1. Managerial Review

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

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

##### 2. Second Request for Review

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

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.40.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 44:249 (February 2018), effective March 1, 2018, LR 44:1861 (October 2018).

## Chapter 9. Changes Requiring a New License

### §901. Change in Location

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

#### B. Temporary Change in Location

1. If a currently licensed center closes for reasons, including but not limited to fire on the premises or structural damages to the center, and the children are relocated to a

temporary location until repairs have been made, it is considered a new operation and a new license is required prior to opening at the new temporary location.

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.39 and R.S. 17:6 and 17:407.40.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 44:1861 (October 2018).

### §903. Change of Ownership

A. When a center changes ownership, the current license is not transferable.

B. Prior to the ownership change, the new owner shall submit a new application and fee for licensure and obtain a new license.

C. Any of the following may constitute a change of ownership:

1. change in federal tax ID number;
2. change in state tax ID number;
3. change in profit status;
4. any transfer of partial or full ownership of the center from an individual or juridical entity to any other individual or juridical entity;
5. termination of child care services by one owner and beginning of services by a different owner without a break in services to children.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 47:1275 (September 2021).

### §905. Change in License Type

A. To change license type, an early learning center shall submit a written request to change its license type and a \$25 change fee using the department's online electronic system.

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:407.36, R.S. 17:6, and 17:407.38-39.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016), LR 44:1861 (October 2018).

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

A. A center shall notify the department in writing of a temporary closure (closure of more than 5 calendar days, but less than 30 calendar days) within 1 day of closure of the center.

B. The provider shall notify the department in writing of a permanent closure of center (closure of more than 30 calendar days) within 7 calendar days of closure of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.39, and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 44:1861 (October 2018).

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.39, and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 44:1862 (October 2018).

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

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

1. death;
2. serious injury or illness that required medical attention;
3. and a child left unsupervised for any amount of time;
4. use of prohibited behavior management as described in Section 1509.A.8.b. of this Part;
5. allegations or suspicion of child abuse or neglect by center staff;
6. an accident involving the transportation of children; or
7. any other significant event relating to the health, safety, or well-being of any child, including but not limited to a lost child, an emergency situation, fire or other structural damage, or closure of the center.

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

C. The LDE and other appropriate agencies, such as DCFS, LDH and the Office of State Fire Marshall, as applicable, shall be notified via email within 24 hours of the incident.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 44:1862 (October 2018), LR 47:1275 (September 2021).

**§1105. Identified Violations and Fines**

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

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

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

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

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

1. may include the requirement to take additional corrective action; and
2. may include the assessment of a civil fine of up to \$250 per day for each day of the violation, not to exceed \$2,000 within a consecutive 12-month period; and
  - a. the factors to be used in determining the type of sanction imposed include the severity of the risk, actual

harm and mitigating circumstances, failure to implement a corrective action plan, history of noncompliance, continuing and repeat deficiencies, good-faith effort to comply and any other relevant factors;

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.46.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:249 (February 2018), effective March 1, 2018, LR 44:1862 (October 2018), LR 47:1276 (September 2021).

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

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

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

C. A request for departmental reconsideration shall:

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

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.46.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 44:1862 (October 2018).

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

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

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

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

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

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

E. The appeal shall be suspensive.

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.46.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 44:1862 (October 2018).

#### **§1111. Payment of Fines**

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

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

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

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

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

1. its license may be immediately revoked;
2. the department shall refer uncollected fines to the Office of the Attorney General for collection, and the organization owing the fine shall be assessed, and shall be required to pay, the additional collection fee assessed by the Office of the Attorney General;

3. interest shall begin to accrue on a fine at the current judicial rate on the day following the day the fine becomes due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:1862 (October 2018).

## Chapter 13. Denial, Revocation or Non-Renewal of License

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

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

1. violation of any provision of R.S. 17:407.31 et seq.;
2. violation of any rules and regulations in this bulletin;
3. failure to meet any minimum standards in this bulletin;
4. failure to take steps or actions reasonably necessary to ensure the health and safety and well-being of children in care;
5. failure to timely comply with a corrective action plan approved by the department;
6. failure to obtain approval of any agency whose approval is required for licensure;
7. failure to report a known or suspected incident of abuse or neglect to child welfare authorities;
8. denial of center access to departmental staff or failure or refusal to cooperate with department staff in the performance of official duties;
9. history of non-compliance with licensing laws, rules, or minimum standards;
10. nonpayment of licensure fee;
11. failure to submit application for renewal prior to the expiration of the license;
12. if the owner or director is not reputable;
13. if the owner, director, or a staff member is unsuited for the care of children in the center;
14. any instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, or physical or sexual abuse or neglect, if the owner is responsible or if the employee who is responsible remains in the employment of the center;
15. any act of fraud, such as the submission of false or altered documents or information;

16. the center is closed and there are no plans for immediate reopening and no means of verifying compliance with licensing laws, regulations and minimum standards;

17. the center knowingly continues to employ or allow to be present at the center or on the center premises, a person who is ineligible for child care purposes; and

18. the owner of a center is ineligible for child care purposes and does not immediately leave the center and center premises, or returns to the center or center premises at any time when children are present, or fails to divest ownership of the center or close the center within 30 calendar days of the owner's knowledge of his/her ineligibility for child care purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:249 (February 2018), effective March 1, 2018, LR 44:1863 (October 2018).

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 42:554 (April 2016), LR 44:1863 (October 2018).

### §1305. Posting of Notice of Revocation or Refusal to Renew

A. The LDE shall prominently post notice of a revocation or refusal to renew action at each public entrance of the center within one business day of such action.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 44:1863 (October 2018), LR 47:1276 (September 2021).

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

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

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

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

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

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

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 42:554 (April 2016), LR 44:249 (February 2018), effective March 1, 2018, LR 44:1863 (October 2018).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6, 17:407.44, and 17:407.45.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:628 (April 2015), effective July 1, 2015, amended LR 44:1863 (October 2018).

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

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6, R.S. 17:407.44, and R.S. 17:407.45.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:628 (April 2015), effective July 1, 2015, amended LR 44:1864 (October 2018).

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

### **§1501. Operations**

A. A center shall operate within the licensed capacity, age range, hours of operation and other specific services designated on its license.

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

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

### **§1503. General Liability Insurance Policy**

A. A center shall maintain in force at all times current commercial liability insurance for the operation of the center to ensure medical coverage for children in the event of accident or injury.

B. A center is responsible for payment of medical expenses of a child injured while in the center's care.

C. Documentation of commercial liability insurance shall consist of the insurance policy or current binder that includes the name of the early learning center, physical address of the center, name of the insurance company, policy number, period of coverage and explanation of the coverage.

D. Parents shall not be required to waive the center's responsibility.

E. Parents may elect to use their own insurance.

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

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

### **§1505. Visitors**

A. Any *visitor*, as defined in §103, to the center shall be accompanied by an adult staff person at all times.

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

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

### §1507. Daily Attendance Records

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

1. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;
2. accurately reflect children on the center premises at any given time; and
3. be used to sign in and out if a child leaves and returns to the center during the day.

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

1. include the first and last name of the staff member or owner and arrival and departure times;
2. accurately reflect the staff members and owners on the center premises at any given time; and
3. be used to document staff members and owners who leave and return to the center during the day.

C. Independent Contractors. A daily attendance record for all extracurricular personnel, therapeutic professionals and other independent contractors, to include the first and last name of the contractor, date of visit, arrival and departure times, name of staff member that accompanied contractor (if required), and purpose of the visit.

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

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

F. Records Retention. Daily attendance records shall be maintained on site for two years and shall be available for inspection, whether as hard copies or in electronic form upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, amended LR 44:1864 (October 2018), LR 47:1276 (September 2021).

### §1509. Policies

A. An early learning center shall establish in writing, prominently post or show parent's signature of receipt, implement, and implement, the following policies:

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

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

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

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

3. admissions policy that includes admission criteria;

4. disclosure of information policy that provides notice to parents of the licensing authority of the department and the availability of licensing surveys/inspections, regulations and information regarding early learning centers from the department's website;

5. complaint policy:
  - a. parents shall be advised of the licensing authority of the department along with the current telephone number and email address. Parents shall also be advised that they may call or write the department should they have significant, unresolved licensing complaints;

6. parental access policy:
  - a. parents shall be allowed to visit the center anytime during its regular hours of operation and when children are present;

7. parental involvement policy:
  - a. parents shall be offered a minimum of two opportunities for involvement each year, which may include but are not limited to, an open house, parent education session, parent and staff conference, family pot luck dinner, holiday party or parent or grandparent's day;

8. behavior management policy:
  - a. each center shall develop and implement a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center;

- b. the behavior management policy shall prohibit children from being subject to any of the following:
  - i. physical or corporal punishment which includes but is not limited to yelling, slapping, spanking, yanking, shaking, pinching, exposure to extreme temperatures or other measures producing physical pain, putting anything in the mouth of a child, requiring a child to exercise, or placing a child in an uncomfortable position;
  - ii. verbal abuse, which includes but is not limited to using offensive or profane language, telling a child to "shut up", or making derogatory remarks about children or family members of children in the presence of children;

- iii. the threat of a prohibited action even if there is no intent to follow through with the threat;
- iv. being disciplined by another child;
- v. being bullied by another child;
- vi. being deprived of food or beverages;
- vii. being restrained by devices such as high chairs or feeding tables for disciplinary purposes; and
- viii. having active play time withheld for disciplinary purposes, except timeout may be used during active play time for an infraction incurred during the playtime;

c. time out:

- i. time out shall not be used for children under age two;
- ii. a time out shall take place within sight of staff;
- iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age;
- iv. for children over age six, a time out may be extended beyond one minute per year of age, if a signed and dated statement, including a maximum time limit, from the parent granting such permission, is on file at the center;

9. electronic devices policy that provides that all activities involving electronic devices, including but not limited to television, movies, games, videos, computers and hand held electronic devices, shall adhere to the following limitations:

- a. electronic device activities for children under age two are prohibited; and
- b. time allowed for electronic device activities for children ages two and above shall not exceed two hours per day, with the exception that television, DVD, or video viewing shall be limited to no more than one hour per day;

10. computer practices policy that requires computers that allow internet access by children to be equipped with monitoring or filtering software that limits access by children to inappropriate websites, e-mail, and instant messaging;

11. programs, movies and video games policy:

- a. programs, movies, and video games with violent or adult content, including but not limited to soap operas, television news, and sports programs aimed at audiences other than children, shall not be permitted in the presence of children;
- b. all television, video, DVD, or other programming shall be suitable for the youngest child present;
- c. "PG" programming or its television equivalent shall not be shown to children under age five;

d. "PG" programming shall only be viewed by children age five and above and shall require written parental authorization;

e. any programming with a rating more restrictive than "PG" is prohibited;

f. all video games shall be suitable for the youngest child with access to the games:

- i. "E10+" rated games shall be permitted for children ages 10 years and older;
- ii. "T" and "M" rated games are prohibited.

12. monitoring policy for provisionally employed staff members:

a. each center shall develop and implement a written policy describing the monitoring procedures that shall be used at the center when staff members are employed on a provisional basis due to an incomplete CCCBC-based determination of eligibility for child care purposes;

b. the monitoring policy shall include all requirements for the monitoring of provisionally employed staff members set forth in §1811.D;

c. the center shall post a copy of the policy in the center in a place visible to all parents and staff;

d. the center shall provide copies of the written policy to each parent/legal custodian of enrolled children, center staff member and provisionally employed staff member, and the center shall obtain signed documentation from each that a copy of the policy has been received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, amended LR 44:250 (February 2018), effective March 1, 2018, LR 44:1864 (October 2018), LR 47:1276 (September 2021).

**§1511. Procedures**

A. An early learning center shall establish in writing and implement procedures for:

1. physical activity:

a. children under age two shall be provided time and space for age-appropriate physical activity, both indoors and outdoors, weather permitting, for a minimum of 60 minutes per day;

b. children age two and older shall be provided physical activity that includes a combination of both teacher-led and free play, both indoors and outdoors, weather permitting, for a minimum of 60 minutes per day;

2. sleep/rest:

a. infants shall be allowed to sleep according to their individual schedules;

b. children under age four shall have daily rest time of at least 75 minutes in programs operating more than 5 hours per day;

c. children ages four and older shall be offered the opportunity for quiet time;

3. receiving and releasing a child from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 44:1864 (October 2018).

**§1513. Schedules**

A. An early learning center shall establish in writing and post the following schedules:

1. schedule of days and hours of operation, including scheduled days and holidays when center is closed; and

2. daily schedule that includes times of planned activities, including early learning activities, allowing for flexibility and change.

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

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

**§1515. Child Records and Cumulative Files**

A. Cumulative File. A cumulative file shall be maintained on each child that shall include the following records:

1. an information form signed and dated by the parent and updated as changes occur, that contains:

a. name of child, date of birth, sex, date of admission;

b. name of parents and the home address of both child and parents;

c. phone numbers where parents may be reached while child is in care;

d. name and phone number of person to contact in an emergency if parents cannot be located promptly;

e. any special concerns, including but not limited to allergies, chronic illnesses, and any special needs of the child, if applicable; and

f. any special dietary needs, restrictions or food allergies or intolerances, if applicable. See Paragraph 4;

2. written authorization signed and dated by the parent to secure emergency medical treatment; and

3. written authorization signed and dated by the parent noting the first and last names of individuals to whom the child may be released other than the parents, including any other early learning centers, transportation services, and any person or persons who may remove the child from the center:

a. the parent may further authorize additional individuals via a text message, fax, or email to the center in unplanned situations and follow it with a written authorization;

b. a child shall never be released to anyone unless authorized in writing by the parent;

c. any additions and deletions to the list of authorized individuals shall be signed and dated by the parent;

d. the center shall verify the identity of the authorized person prior to releasing the child;

4. special diets:

a. unless the program is officially on the Child and Adult Care Food Program (CACFP), a parent may request special diet adjustments (i.e. no milk on a particular day);

b. if a center is on the CACFP, a written statement from a health care provider is required when the child requires a special diet for medical reasons;

c. a written statement from the parent is required when the child requires a modified diet.

B. Consent to Release. The center shall obtain written consent from the parent prior to releasing any information, recordings, or photographs from which the child might be identified, except to authorized state and federal agencies. This one-time written consent shall be obtained from the parent and updated as changes occur.

C. Confidentiality. The center shall maintain the confidentiality and security of all records of children. Center staff is prohibited from disclosing or knowingly permitting the disclosure of any information concerning the child or the family of the child, either directly or indirectly, to any unauthorized person.

D. Retention of Records. Records of children shall be maintained by a center for a minimum of two years from the date of termination of the child's enrollment at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

E. An early learning center shall provide a written copy of all health-related policies established by the center, including policies regarding accidents, allergic reactions, fever, illness, immunizations, infection, and injuries, to the parent or guardian of each child attending or enrolled the early learning center.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 44:250 (February 2018), effective March 1, 2018, LR 47:1276 (September 2021).

## Chapter 17. Minimum Staffing Requirements and Standards

### §1707. Required Staff

A. Director or Director Designee. Each center shall have a qualified director or qualified director designee.

1. The director or director designee shall be an on-site, full-time staff person at the center during the daytime hours of operation (prior to 9 p.m.). When the director is not an on-site full-time employee at the licensed location, there shall be a qualified director designee who is an on-site full-time employee at the licensed location.

2. The director or director designee shall be responsible for planning, managing, and controlling the center's daily activities, as well as responding to parental concerns and ensuring that minimum licensing requirements are met.

B. Staff-in-Charge. When the director or director designee is not on the premises due to a temporary absence of less than 11 consecutive business days, or during nighttime care hours, there shall be an individual appointed as staff-in-charge.

1. The staff-in-charge shall be at least age 21.

2. The staff-in-charge shall have the authority to respond to emergencies, inspections, parental concerns, and have access to all required information.

C. More than 42 Children in Care. When the number of children present at an early learning center exceeds 42, the duties of the director or director designee shall consist only of performing administrative duties or there shall be an individual present whose job duties consist solely of administrative duties and of ensuring that staff members working with children do not leave their classrooms to handle administrative duties.

#### D. Staff

1. Staff shall be age 18 or older.

2. A person age 17 may be included in the child-to-staff ratio if the person works under the direct supervision of an adult staff member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 41:2107 (October 2015), LR 44:1864 (October 2018).

### §1709. Director Qualifications

A. The director/director designee shall be at least 21 years of age.

B. The director/director designee shall have documentation of at least one of the following upon date of hire as director or director designee:

1. an early childhood ancillary certificate and one year of experience in teaching or care in a licensed early learning

center or comparable setting, subject to approval by the department;

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

3. three years of experience as a director or staff in a licensed early learning center, or comparable setting, subject to approval by the department plus 6 credit hours or 90 clock hours of training in child care, child development, early childhood, or management/administration approved by the department.

C. A director who was qualified on the director's date of hire remains qualified as long as the director remains continuously employed at the licensed center or at another licensed center without a break in service of more than 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 44:250 (February 2018), effective March 1, 2018, LR 44:1865 (October 2018).

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

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

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

1. There shall be a minimum of two staff members present at an early learning center when more than four children are present.

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

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

D. Minimum child-to-staff ratios for type II and type III centers are as follows.

Minimum Child-to-Staff Ratios—Types II and III Centers	
Ages of Children	Ratio
Infants under 1 year	5:1
1 year	7:1
2 years	11:1
3 years	13:1
4 years	15:1
5 years	19:1
6 years and up	23:1

E. Future Minimum Child-to-Staff Ratios for Two-Year-Olds in Type I, Type II, and Type III Centers. If the Louisiana Child Care Assistance Program subsidy rate reaches the seventy-fifth percentile of the 2017 Louisiana child care market rate survey for weekday care of toddlers

by December 1, 2021, the child-to-staff ratio for two-year-olds shall decrease to 10:1 as of July 1, 2022.

**F. Minimum Child-to-Staff Ratios—Type I Centers**

1. Minimum child-to-staff ratios for type I centers shall be in accordance with Paragraph 2 of this Subsection until July 1, 2020, at which time minimum child-to-staff ratios for children ages 3 and up shall be the same for type I centers as those provided for in Subsection D of this Section for type II and type III centers.

2. Minimum child-to-staff ratios for children ages 2 and under for type I centers shall be the following until July 1, 2021, at which time minimum child-to-staff ratios for children ages 2 and under shall be the same for type I centers as those provided for in Subsection D of this Section for type II and type III centers.

Minimum Child-to-Staff Ratios—Types I Centers (Effective until July 1, 2021)	
Ages of Children	Ratio
Infants under 1 year	6:1
1 year	8:1
2 years	12:1
3 years	14:1
4 years	16:1
5 years	20:1
6 years and up	25:1

**G. Mixed Age Groups—Minimum Child to Staff Ratios**

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

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

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

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

**H. Rest Time—Minimum Child to Staff Ratios**

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

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

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

**J. Field Trips—Minimum Child to Staff Ratios**

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

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

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

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

1. Minimum child to staff ratio, plus one additional adult, shall be met for all non-vehicular excursions.

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

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

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

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

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

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

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

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

**N. Maximum Group Sizes—Types I, II, and III Centers**

1. Maximum group sizes for type II and type III centers are as follows.

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

**2. Type I Centers**

a. Maximum group sizes for type I centers shall be in accordance with Subparagraph b of this Paragraph until July 1, 2020, at which time maximum group sizes for type I centers for children ages 3 and up shall be the same as those provided for in Paragraph 1 of this Subsection for type II and type III centers.

b. Maximum group sizes for type I centers for children ages 2 and under shall be the following until July 1, 2021, at which time maximum group size for children ages 2 and under shall be the same for type I centers as those provided for in Paragraph 1 of this Subsection for type II and type III centers.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(3).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:638 (April 2017), LR 44:250 (February 2018), effective March 1, 2018, LR 44:1865 (October 2018), LR 45:525 (April 2019).

### **§1713. Supervision**

A. Children shall be supervised at all times in the center, on the playground, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

B. Children shall not be left alone in any room, (except the restroom as indicated in Subsection G of this Section or when being provided services by therapeutic professionals, as defined in §103), outdoors, or in vehicles, even momentarily, without staff present.

C. A staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times.

D. Individuals who do not serve a purpose related to the care of children or who hinder supervision of children in care shall not be present in the center.

E. While supervising a group of children, staff shall devote their time to supervising the children, meeting the needs of the children, and participating with them in their activities.

F. Staff duties that include cooking, housekeeping or administrative functions shall not interfere with the supervision of children.

#### **G. Restrooms**

1. Children who are developmentally able may be permitted to go to the restroom independently at an early learning center, provided that:

a. a staff member is in proximity to and can see the children to ensure immediate intervention to safeguard a child from harm while in the restroom; and

b. individuals who are not staff members may not enter the center restroom area while in use by any child other than their own child.

2. A child age four and older may be permitted to go and return from the restroom without staff.

H. Play Yard. When children are at the play yard, the supervising staff member must be able to summon another adult staff member without leaving the children unsupervised.

I. Water Activities. Staff shall actively supervise children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

#### **J. Rest Time**

1. If two rooms share a common doorway, one staff member may supervise the resting children in both rooms.

2. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff circulating among the resting children.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:634 (April 2015), effective July 1, 2015, amended LR 41:2107 (October 2015), LR 42:554 (April 2016), LR 44:250 (February 2018), effective March 1, 2018.

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

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

1. an application or staff information form containing the following information:

- a. name;
- b. date of birth;
- c. home address and phone number;
- d. training,
- e. work experience;
- f. educational background;
- g. hire date; and
- h. first day onsite working with children;

2. copy of a state or federal government issued photo identification;

3. upon termination or resignation of employment, the last date of employment and reason for leaving; and

4. documentation of CCCBC-based determination of eligibility for child care purposes from the department.

B. Records Retention. Staff records and personnel files shall be maintained for a minimum of two years from the date of termination of employment and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.40.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1276 (September 2021).

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

A. Independent Contractors. The following information shall be maintained for all independent contractors including, but not limited to, therapeutic professionals, extracurricular personnel, contracted transportation drivers, local school district staff, and departmental staff other than those responsible for inspecting centers:

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

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

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

C. Records Retention. Records for independent contractors and student trainees shall be maintained for a minimum of two years from the date the contractor or student was last present at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.40(A)(1), 17:407:40, and 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1277 (September 2021).

### §1719. Orientation Training

A. Within seven calendar days of the first day present at the center, and prior to assuming sole responsibility for any children, each staff member shall receive center-specific orientation to the policies and practices of the center that at a minimum shall include information on the center:

1. child abuse identification and reporting, including phone numbers for mandatory reporting and suspected child abuse and neglect;
2. location of emergency exits and emergency preparedness plans;
3. handling of emergencies due to food/allergic reactions;
4. location of first-aid supplies;
5. list of children with allergies and special needs;
6. identification of critical staff including but not limited to staff trained in CPR and first aid and staff who can administer medicine;
7. child release policies and restrictions;
8. child-to-staff ratio policies;
9. daily schedules;
10. opening policy;
11. closing policy; and
12. transportation policy and vehicle inspection procedures.

B. Within seven calendar days of the first day present at the center, and prior to assuming sole responsibility for any children, each staff member shall complete the LDE Key Training Module 1 and the DCFS online Mandated Reporter Training. Key Training Module 1 shall at a minimum include information on the following:

1. general emergency preparedness, including natural disasters and man-caused events;
2. professionalism;
3. health and safety, which includes: daily observations, supervision regulations, daily attendance, child to staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks recognition and reporting of child abuse and neglect;
4. administration of medication consistent with standards for parental consent;
5. prevention and response to emergencies due to food and allergic reactions;
6. appropriate precautions in transporting children, if applicable;
7. public health policies, prevention and control of infectious diseases, including immunization information;
8. handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
9. pediatric first aid and cardiopulmonary resuscitation (CPR);
10. prevention of sudden infant death syndrome and use of safe sleep practices;

11. outdoor play practices;
12. environmental safety; and
13. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
14. child release practices; and
15. critical incident practices and licensing regulations

C. Within 30 calendar days of the first day present at the center and prior to assuming sole responsibility for any children, each staff member shall complete the LDE Key Orientation Training Modules 2 and 3, that at a minimum shall include information on the following:

1. child development;
2. child guidance;
3. learning activities;
4. health and safety; and
5. early learning development standards.

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016), LR 44:1866 (October 2018), LR 47:1277 (September 2021).

### **§1721. Continuing Education**

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

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

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

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

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

1. child development;
2. child guidance;
3. child abuse prevention;
4. emergency preparation;
5. licensing regulations;
6. learning activities;
7. health and safety;
8. shaken baby prevention;
9. CPR;
10. first aid;
11. management/administrative education; or

12. college credit hours in child care, child development, and/or early childhood.

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

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

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

H. Copies of certificates of completion or transcripts shall be maintained at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, by the LDE upon request.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:555 (April 2016), LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1277 (September 2021).

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

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

B. Adult CPR. Fifty percent of staff members on the premises of a center and accessible to children, or at least four staff members on the premises and accessible to

children, whichever is less, shall have current certification in adult CPR through training approved by the department.

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

D. When a center has more than one building, each building shall have at least one staff member present at all times certified in the CPR and first aid appropriate for the age of the children present in the building.

E. Certification. A copy of the certification for each such staff member shall be on-site at all times and available for inspection, whether as hard copies or in electronic form, upon request by the department.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1278 (September 2021).

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

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

B. Whether the center is administering medication or not, each early learning center shall have at least two staff members trained in medication administration and at least one trained staff member on the premises during the hours of operation. A staff member who is a licensed practical nurse (LPN) or registered nurse (RN) with a valid nursing license shall be considered to have medication administration training.

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

D. Documentation of current completion of such training shall be maintained by the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1278 (September 2021).

### **§1727. Child Neglect and Abuse Mandatory Reporter Training**

A. All staff members shall annually complete the online child abuse and neglect Mandated Reporter Training provided by DCFS.

B. Documentation of completion of the course shall be maintained by the center for all staff and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:1278 (September 2021).

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

### **§1801. Prohibition**

A. No person who has been found by the department to be ineligible for child care purposes shall own, operate or participate in the governance of an early learning center, or shall be employed by an early learning center as a volunteer, staff member, employee or independent contractor of any kind, or shall be employed by an entity identified in §1809 as an employee or contract employee that provides services in early learning centers when children are present.

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

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

### **§1803. Determination of Eligibility**

A. The department shall determine a person's eligibility for child care purposes based upon the results of the person's CCCBC.

B. Components of a CCCBC. A CCCBC shall include:

1. a request for a fingerprint-based search of the Louisiana criminal history information record;
2. a request for a fingerprint-based search of the federal criminal history information record;
3. a request to DCFS to search the Louisiana state central registry of child abuse and neglect;
4. a search of the Louisiana sex offender and child predator registry;
5. a search of the national sex offender registry, as required by 45 CFR 98.43(b)(2); and
6. a request for a search of the name-based state criminal history information record, state sex offender registry, and state registry of child abuse and neglect in each state where the person resided in the past five years, as required by 45 CFR 98.43.43(b)(3).

C. The department shall determine that a person is either eligible or ineligible for child care purposes.

D. The department shall provide written notice of a CCCBC-based determination of eligibility for child care purposes in the following manner:

1. to the requesting early learning center or entity identified in §1809, the determination that the person is

eligible or ineligible for child care purposes only, without revealing any disqualifying crime or other related information regarding the person; and

2. to the person for whom the early learning center or entity identified in §1809 requested the determination, the determination that the person is eligible or ineligible for child care purposes; and if the person is ineligible for child care purposes, information related to each disqualifying crime or other related information regarding the person, and information about the opportunity to appeal the accuracy or completeness of the CCCBC results received by the department and used in the determination of eligibility.

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

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

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

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

1. refuses to consent to a CCCBC-based determination of eligibility for child care purposes;

2. knowingly makes a materially false or incomplete statement in connection with the CCCBC-based determination of eligibility for child care purposes;

3. has been convicted of or plead guilty or *nolo contendere* to any of the crimes listed in R.S. 15:587.1(C), or those of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C); or

4. is registered or required to be registered on the Louisiana sex offender and child predator registry, any other state sex offender registry, or the national sex offender registry.

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

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

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

that the person has been convicted of or plead guilty or *nolo contendere* to any of the crimes listed in R.S. 15:587.1(C), or crimes of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C), or is otherwise ineligible for child care purposes.

D. In addition, for type III centers an owner, director, or director designee shall not have been convicted of, or pled guilty or *nolo contendere* to a felony, within the past 10 years, for any of the following crimes of fraud:

1. 18 U.S.C. 287 and 1341 and R.S. 14:67.11, 14:68.2, 14:70.1, 14:70.4, 14:70.5, 14:70.7, 14:70.8, 14:71, 14:71.1, 14:71.3, 14:72, 14:72.1.1, 14:72.4, 14:73.5, and 14:133.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1, 17:6, and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018, amended LR 44:1866 (October 2018), amended LR 45:224 (February 2019), LR 47:1278 (September 2021).

### **§1806. Types of CCCBC-Based Determinations of Eligibility for Child Care Purposes**

A. There are two types of CCCBC-based determinations of eligibility for child care purposes:

1. "owner/director/director designee of type III centers" determinations of eligibility are required for owners, directors and director designees of type III centers; and

2. "child care staff member" determinations of eligibility are required for owners, directors and director designees of type I and type II centers and volunteers, staff, visitors, contractors and other persons providing services in any type of child care centers when children are present.

B. A person with an "owner/director/director designee of type III centers" determination of eligibility also has a "child care staff member" determination of eligibility.

C. A person with a "child care staff member" determination of eligibility does not have an "owner/director/director designee of type III centers" determination of eligibility.

1. For a person with a "child care staff member" determination of eligibility, a type III center must obtain an "owner/director/director designee of type III centers" determination of eligibility before that person can become an owner, director or director designee of the type III center.

2. To obtain an "owner/director/director designee of type III centers" determination of eligibility for a person with a valid "child care staff member" determination of eligibility, the type III center must request the subsequent determination from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:224 (February 2019).

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

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

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

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

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

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

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

D. Parents or Legal Custodians, Grandparents, Siblings

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

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

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

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1, 17.6, and 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018, amended LR 44:1867 (October 2018).

**§1809. CCCBC-Based Determinations of Eligibility for Child Care Purposes Required for Persons Providing Services in Early Learning Centers**

A. The following entities shall obtain a CCCBC-based determination of eligibility for child care purposes from the department for any of their employees or contract employees that provide services in early learning centers when children are present:

1. local educational agencies that provide services to children in early learning centers, for their school and contract employees who provide these services in early learning centers;

2. resource and referral agencies that are approved by BESE and under contract with the department to provide services to early learning center employees, for their employees and contract employees that provide these services in early learning centers;

3. entities approved by BESE and under contract with the department to provide state mental health consultations in early learning centers, for their employees and contract employees providing these services in early learning centers;

4. teacher preparation programs approved by BESE, for their employees, contract employees and enrolled students that are required to be present in early learning centers;

5. accredited Louisiana universities, for therapeutic program faculty and enrolled students that are required to be in early learning centers;

6. lead agencies approved by BESE and under contract with the department to provide services in early learning centers, for their employees and contract employees providing these services in early learning centers;

7. Louisiana Department of Health, which provides IDEA, part C services for children in early learning centers, for its employees and contract employees providing these services in early learning centers;

8. third-party contractors approved by BESE and under contract with the department to provide services in early learning centers, for their employees and contract employees providing these services in early learning centers;

9. entities approved by the department that provide services in early learning centers, for owners and employees of the entity providing services in early learning centers; and

10. the department, which provides services in early learning centers, for its employees and contract employees providing services in early learning centers.

B. Each entity shall have documentation for each required person in Subsection A that allows an early learning center to verify the person's CCCBC-based determination of eligibility for child care purposes.

C. Persons approved by the department who provide services in, or require access to, early learning centers shall obtain a CCCBC-based determination of eligibility for child care purposes from the department.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:253 (February 2018), effective March 1, 2018.

#### **§1811. Requests for CCCBC-Based Determinations of Eligibility for Child Care Purposes from the Department**

A. An early learning center or an entity identified in §1809 shall request and obtain from the department a new CCCBC-based determination of eligibility for child care purposes for each required person:

1. prior to the person being present or performing services at the center when children are present; and
2. not less than once during a five-year period.

B. An early learning center or an entity identified in §1809 shall not be required to request and obtain from the department a new CCCBC-based determination of eligibility for child care purposes for a required person, and instead shall be able to request and obtain from the department the person's CCCBC-based determination of eligibility provided to another in-state child care provider or entity identified in §1809, if:

1. a child care provider within the state or an entity requested and obtained a CCCBC-based determination of eligibility for child care purposes from the department for the person within the past five years, while the person was seeking employment or employed by a in-state child care

provider or seeking to provide or providing services at an early learning center in Louisiana for an entity;

2. the department provided to the initial requesting child care provider or entity a CCCBC-based determination indicating the person was eligible for child care purposes; and

3. the person is still employed by a child care provider within the state, or is still providing services in an early learning center within the state for an entity, or has been separated from a child care provider within the state or an entity for less than 180 consecutive days.

C. Electronic fingerprints shall be used in parishes where they are available.

#### **D. Provisional Employment for Staff Members of Early Learning Centers**

1. A center may provisionally employ as a staff member, a person for whom it has requested a CCCBC-based determination of eligibility for child care purposes, and for whom the department has received a satisfactory fingerprint-based Louisiana or federal criminal history information record, pending the department's receipt of the other CCCBC results and determination of the person's eligibility for child care purposes.

2. A provisionally-employed staff member may be counted in child to staff ratios, but must be monitored at all times in accordance with the following.

- a. A monitor of a provisionally-employed staff member must be an adult staff member for whom the center has a CCCBC-based determination of eligibility for child care purposes, (or prior to October 1, 2018, a satisfactory CBC), who is designated by the center to monitor a specific provisionally-employed staff member.

- b. The center must designate a monitor for each provisionally-employed staff member present at the center.

- c. The monitor shall be physically present at the center at all times when the provisionally-employed staff member is present at the center.

- d. Monitors must remain within close enough physical proximity of their designated provisionally-employed staff members to be able intervene at any time if intervention is needed.

- e. A monitor shall perform at least one visual observation of each designated provisionally-employed staff member every 30 minutes.

- f. The center may designate one monitor for up to a maximum of five provisionally-employed staff members at any given time.

- g. At least one monitor must be physically present at all times in any room during naptimes if a provisionally-employed staff member is present.

3. The center shall have a log, either handwritten or in electronic form, or other written documentation of the monitoring of provisionally-employed staff members that

identifies each provisionally-employed staff member, the designated monitor for each, and the times of the visual observations.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 44:253 (February 2018), effective March 1, 2018, LR 47:1278 (September 2021).

#### **§1815. Fees for CCCBC-Based Determinations of Eligibility for Child Care Purposes**

A. All fees required to be paid to the Louisiana Department of Education shall be paid through its electronic payment system and are nonrefundable.

B. The department shall charge and collect a \$15 processing fee when it receives a request for a CCCBC-based determination of eligibility for child care purposes.

C. The department may also collect on behalf of the respective agencies the processing fees charged by DCFS for a search of its state central registry of child abuse and neglect, the bureau of criminal identification and information for a state criminal history report, the Federal Bureau of Investigation for a federal criminal history information report, the national crime information center for a search of the national sex offender registry, and processing fees charged by other states, when it receives a request for a CCCBC-based determination of eligibility for child care purposes.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 44:255 (February 2018), effective March 1, 2018.

#### **§1817. Reporting Requirements**

A. An early learning center or an entity identified in §1809 shall provide written notice to the licensing division within 24 hours of receipt of notice of, or upon becoming aware of, any of the occurrences listed in Subsection A for an owner, volunteer, staff member, employee or independent contractor of the early learning center, or an employee or contract employee of an entity identified in §1809 that provides services in early learning centers when children are present:

1. final conviction or a plea of nolo contendere to any of the crimes listed in R.S. 15:587.1(C), or those of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C);

2. becoming registered or required to register on the Louisiana sex offender and child predator registry, any other state sex offender registry, or the national sex offender registry; or

3. having name recorded on the Louisiana state central registry of child abuse and neglect or any other state registry of child abuse and neglect.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 44:255 (February 2018), effective March 1, 2018.

#### **§1819. Termination of Employment and Removal from Center and Premises**

A. Early Learning Center. Upon receipt of notice from the department that a person is ineligible for child care purposes, for an employee, volunteer, staff member or independent contractor of an early learning center, the center shall immediately remove the person from the center and center premises, and if the person is employed by the center, terminate the employment of the person.

B. Owner of Early Learning Centers. Upon receipt of notice from the department that he or she is ineligible for child care purposes, the owner of a center shall immediately leave the center and premises and shall not return to the center or premises at any time when children are present, and shall divest of ownership of the center, or close the center, within 30 calendar days of receipt of said notice.

C. Entity Identified §1809. Upon receipt of notice from the department that a person is ineligible for child care purposes, for an employee or contract employee of an entity identified in §1809 that provides services in early learning centers when children are present, the entity shall immediately notify any early learning center at which the employee or contract employee is providing services and shall prohibit the employee from providing future services on the entity's behalf in any early learning centers.

D. Exception for Owners, Directors and Director Designees of Type III Centers with Notices of Ineligibility

1. Upon receipt of notice from the department that an owner, director or director designee of a type III center is ineligible for child care purposes based solely on a crime of fraud listed in §1805.D of this Chapter, the owner, director or director designee of the type III center may remain on the premises pending a review of the determination of ineligibility by BESE, provided the owner, director or director designee of the type III center timely submits the following:

a. a written request to BESE staff for a review of the determination of ineligibility pursuant to §1823 of this Chapter within 15 business days of receipt of the notice of ineligibility from the department; and

b. documentation listed in §1823.D and E.2 of this Chapter to BESE staff within 30 business days of receipt of the notice of ineligibility from the department.

2. If the owner, director or director designee of the type III center:

a. fails to timely comply with Paragraph 1 of this Subsection;

b. chooses not to request a records review for the notice of ineligibility; or

c. remains ineligible because BESE declines to conduct a review of the determination, or BESE determines

that the owner, director or director designee of the type III center shall remain ineligible, then the requirements in:

i. Subsection A of this Section shall apply to directors and director designees of the type III center who are not also owners, or the director or director designee of the type III center may continue to work as a staff member at the type III center other than the director or director designee, or as any type of staff member at a type I or type II center, including the director or the director designee of the type I or type II center; and

ii. Subsection B of this Section shall apply to all owners of type III centers, whether or not they are directors or director designees of type III centers in that such owners must:

(a). divest ownership of the type III center within 30 calendar days of receipt of the original notice of ineligibility from the department if no records review is requested, or within 30 calendar days of receipt of notice of continuing ineligibility from BESE if a records review is requested. The owner may continue to work at the center as a staff member other than the director or director designee, but may not continue to own the center; or

(b). change license types for the center from a type III to a type I or type II license within 30 calendar days of receipt of the original notice of ineligibility from the department if no records review is requested, or within 30 calendar days of receipt of notice of continuing ineligibility from BESE if a records review is requested and then may continue to own the center.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 44:255 (February 2018), effective March 1, 2018, amended LR 45:224 (February 2019).

### **§1821. Appeal of Accuracy or Completeness of CCCBC Results**

A. A person who has received a notice of ineligibility (NOI) for child care purposes from the department may appeal the accuracy or completeness of the CCCBC results received and used by the department to determine the person's ineligibility.

B. A person appealing the accuracy or completeness of the CCCBC results shall remain ineligible during the appeals process.

C. Request for Appeal of Accuracy or Completion of CCCBC Results

1. A request for such an appeal must be submitted in writing to the department, in a form provided by the department, within 45 calendar days of the date of issuance of the NOI.

2. To be sufficient, a request for appeal:

a. must contain written reasons that identify the specific information provided in the NOI that is believed to be inaccurate or incomplete; and

b. should include official information and/or documentation of the accurate and/or complete information, if available.

3. Upon receipt of a request for appeal, the department shall determine whether the request is sufficient or insufficient, and shall notify the requestor in writing accordingly.

#### **D. Review of Appeal**

1. If the request for an appeal is sufficient, and no further information or documentation is required, the department shall complete the review of the appeal information and/or documentation and render a final written decision within 30 calendar days of receipt of the request for appeal.

2. If the request for an appeal is sufficient, but additional information and/or documentation is required to complete the appeal, the department shall notify the requestor in writing, and the requestor shall have 45 calendar days from the date of the request to provide the information and/or documentation.

a. If the required information and/or documentation is not received within the 45 days, the appeal may be denied for insufficiency of information and/or documentation.

b. If the required information and/or documentation is received within 45 days, the department shall complete the review of the appeal information and/or documentation and render a final written decision within 30 calendar days of receipt of the required information and/or documentation or receipt of required information and/or documentation requested by the department on behalf of the requestor.

#### **E. Result of Appeal**

1. If as a result of the appeal process, the requestor's CCCBC results are revised, and based on the revised CCCBC results, the department determines the requestor is eligible for child care purposes, the department shall notify the appeal requestor and the original requesting early learning center or entity identified in §1809 that the requestor is eligible for child care purposes by sending a notice of eligibility for child care purposes to both.

a. The notice of eligibility shall be valid from the date of issuance. The expiration date shall be five years from the date the original NOI was sent to the requestor and the requesting early learning center or entity identified in §1809.

2. If the appeals process does not result in a revision of the CCCBC results, or if it results in a revision to the CCCBC results, but based on the revised results, the requestor is still ineligible for child care purposes, the department shall notify the requestor in writing that the appeal is denied and that the determination of ineligibility remains in effect.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 44:256 (February 2018), effective March 1, 2018.

**§1823. Review of Determinations of Ineligibility for Owners, Directors, or Director Designees of Type III Centers**

A. A review of a determination of ineligibility for owners, directors or director designees of type III centers shall not be considered if it is based in part on any crime or event listed in §1805.A through C of this Chapter.

B. A review of a determination of ineligibility may only be considered for owners, directors or director designees of type III centers if the determination is based solely on a crime of fraud listed in §1805.D of this Chapter.

C. A review of a determination of ineligibility based solely on a crime of fraud listed in §1805.D of this Chapter shall not be considered until at least five years have lapsed from the date of entry of the final conviction or plea which resulted in the determination of ineligibility.

D. An applicant may apply to the Board of Elementary and Secondary Education (BESE) for a review of his/her determination of ineligibility based solely on a crime of fraud listed in §1805.D of this Chapter after the lapse of time indicated above and under the following conditions:

1. There are no other crimes or events that would render the applicant ineligible to be an owner, director, or director designee of a type III center pursuant to §1805 of this Chapter other than a crime of fraud listed in §1805.D of this Chapter; and

2. There has been successful completion of all conditions/requirements of any parole or probation.

E. The applicant must provide relevant documentation, including:

1. documentation from the department that the determination of ineligibility is based solely on a crime of fraud listed in §1805.D of this Chapter and there are no other crimes or events that would prohibit the applicant from being eligible to be an owner, director, or director designee of a type III center; and

2. relevant documentation of all conditions and requirements of any parole and/or probation.

F. Applicant's responsibilities are as follows:

1. contact the BESE office and submit a written request for a review of records for a determination of ineligibility as an owner, director or director designee of a type III center based on a crime of fraud listed in §1805.D of this Chapter; and

2. provide each applicable item identified in Subsection D of this Section and any evidence of rehabilitation. It is recommended that the applicant provide letters of support from past/present employers, law enforcement officials or other community leaders.

G. BESE's Responsibilities

1. BESE or its designees will consider the request for a review of the determination of ineligibility and the

documentation provided. BESE is not required to conduct a review of the determination and may summarily deny a request for review.

2. If BESE or its designees decide to conduct a records review of the determination, BESE staff shall notify the applicant of a date, time, and place when a BESE committee shall consider the applicant's request. Only written documentation provided prior to the records review will be considered.

3. BESE reserves the right to accept or reject any document as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible to be an owner, director or director designee of a type III center pursuant to §1805.D of this Chapter.

4. The BESE committee shall make a recommendation to the full board regarding whether the determination of ineligibility shall be changed to a determination of eligibility. Board staff shall notify the applicant of BESE's action.

5. BESE's action is a final decision and can only be appealed to a court of proper jurisdiction in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:225 (February 2019).

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

**§1901. General Safety Requirements**

A. Telephones and Emergency Numbers

1. A dedicated working phone, with a number dedicated to the center, that is capable of incoming and outgoing calls shall be readily available at the center at all times.

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

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

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

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

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

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

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

F. The owner or director of an early learning center shall immediately notify law enforcement personnel and the department verbally if there is a known registered sex offender on the premises of the center. The verbal report shall be followed by a written report to the department within 24 hours.

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

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

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

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

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

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

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

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016), LR 44:1867 (October 2018), LR 47:1278 (September 2021).

### §1903. Physical Environment

A. Exclusive Use of Space. Indoor and outdoor space shall be used exclusively by children in care and center staff during hours of operation.

1. Exceptions are allowed only for schools or churches regarding the shared use of kitchens, dining rooms, restrooms and outdoor space.

2. If a center is located in a school or church, the center shall have time designated for exclusive use of the outdoor play area.

B. Physical Separation. An early learning center, except one located in a church or school, shall be physically separated from any other facility, dwelling, business, or enterprise, thereby preventing unauthorized access to children in care.

C. Indoor and outdoor areas shall be free of hazards.

D. Indoor Space

1. A minimum of 35 square feet of usable indoor space shall be available per child until June 1, 2022.

a. Effective June 1, 2022, a minimum of 35 square feet of usable indoor space shall be available per child for children ages birth to 4. For children ages 4 and above, a minimum of 25 square feet of usable indoor space shall be available per child.

b. If any child in a space is less than age 4, a minimum of 35 square feet of usable indoor space shall be available for every child in the space, regardless of age.

c. The space shall not include toilet facilities, hallways, lofts, storage spaces, stairways, lockers, offices, storage or food preparation areas, rooms used exclusively for dining or sleeping, or rooms used exclusively for the care of ill children.

2. The maximum number of children in care at one time, whether on or off the premises, shall not exceed the capacity as specified on the current license.

3. Any room counted as play space shall be available for play for the duration of the hours of operation.

4. Indoor space shall include an area for dining, which may be in each classroom.

5. The number of children using a room shall be based on the 35 square feet per child requirement, except for dining, sleeping, and other non-routine activities such as film viewing and parties.

6. In rooms with cribs, there shall be adequate open floor play space available for crawling, walking, pulling up and playing that is free of routine care furniture.

7. An indoor area shall be maintained for the purpose of providing privacy for diapering, dressing and other personal care procedures for children beyond the usual diapering age.

#### E. Outdoor Space

1. A minimum of 75 square feet of outdoor play space per child using the play space at any one time shall be available.

2. The minimum outdoor play space shall be available for at least one third of the licensed capacity.

3. Outdoor play space shall be available through a direct exit from the center into the outdoor play space or shall be attached to the center in a manner that ensures children are continuously protected by a permanent fence or other permanent barrier while going to and from the center to the outdoor play space.

4. Children shall not enter or exit the center through the kitchen.

5. Outdoor play space shall be enclosed with a permanent fence or other permanent barrier in a manner that protects children from traffic hazards, prevents children from leaving the premises without proper supervision, and prevents contact with animals or unauthorized persons.

6. Crawlspace and mechanical, electrical, or other hazardous equipment shall be made inaccessible to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, effective March 1, 2018, LR 47:1278 (September 2021).

#### §1905. Nighttime Care for Children

A. All minimum standards for early learning centers apply to centers that care for children after 9 p.m. and prior to 5 a.m., and in which no individual child remains for more than 24 hours in one continuous day.

B. The following minimum standards also apply:

1. there shall be an employee on duty designated as staff-in-charge;

2. in addition to meeting all required staff to child ratios in §1711, there shall always be a minimum of two staff members present;

3. staff counted for purposes of meeting child to staff ratio shall be awake;

4. meals shall be served to children at ordinary meal times;

5. time for personal care routines and preparation for sleep, such as brushing teeth, washing hands and face, toileting and changing clothes shall be provided;

6. each child shall have a separate, age appropriate bed or cot with mat or mattress;

7. bunk beds are prohibited;

8. physical restraints shall not be used to confine children to bed; and

9. the center's entrance and drop off zones shall be well lighted during hours of operation.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015.

#### §1907. Furnishings and Equipment

##### A. High Chairs

1. The high chair manufacturer's restraint device shall be used when children are sitting in a high chair.

2. Children who are either too small or too large to be restrained using the manufacturer's restraint device shall not be placed in a high chair.

##### B. Eating Practices

1. Developmentally appropriate seating shall be used.

2. Chairs and tables of suitable size shall be available for each child.

3. Any time feeding tables are used, children's feet must be able to rest comfortably on a footrest.

4. Feeding tables may also be used for occasional program activities that require a table surface for no longer than 30 minutes in one day in addition to mealtime minutes.

##### C. Sleeping Arrangements

1. Individual and appropriate sleeping arrangements shall be made available for each child age one and older.

2. Individual sleeping accommodations shall be assigned to a child on a permanent basis and labeled, and the cots, cribs and mats shall be sanitized daily.

3. For programs serving children ages four and above only, individual and appropriate sleeping arrangements shall be made available for a child that requests a rest time.

##### D. Bed Coverings

1. A labeled sheet for covering the cot or mat and a labeled sheet or blanket for covering the child shall be provided by either the center or the parent, unless the cots or mats are covered with vinyl or another washable surface.

2. Sheets and coverings shall be changed immediately when soiled or wet.

3. Routine laundering shall occur at least weekly.

##### E. Cribs

1. Children are prohibited from sleeping in playpens or cribs with mesh sides.

2. Cribs shall be free of toys and other soft or loose bedding, including comforters, blankets, sheets, bumper pads, pillows, stuffed animals and wedges when the child is in the crib.

F. Prohibited items:

1. infant walkers;
2. toy chests, storage bins and other equipment with attached lids;
3. latex balloons for children under age three;
4. trampolines; and
5. culverts.

G. All furniture shall be developmentally appropriate.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, LR 47:1279 (September 2021).

#### §1909. Safe Sleep Practices

A. Only one infant shall be placed in a crib.

B. All infants shall be placed on their backs for sleeping.

1. Written authorization from a physician is required for any other sleeping position.

2. Written notice of the specifically authorized sleeping position shall be posted on or near the crib.

C. Infants shall not be placed in positioning devices, unless the center has written authorization from a physician to use a positioning device.

D. Written authorization from a physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is allowed to remain in said device.

E. "Back To Sleep" signs shall be posted in the room where infants sleep.

F. Infants who use pacifiers shall be offered their pacifier when they are placed to sleep, but it shall not be placed back in the mouth once the child is asleep.

G. Bibs shall not be worn by any child while asleep.

H. Nothing shall be placed over the head or face of an infant.

I. A safety approved crib shall be available for each infant.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015),

effective July 1, 2015, amended LR 44:256 (February 2018), effective March 1, 2018.

#### §1911. Care of Children

A. Diapers shall be changed when wet or soiled.

B. Children shall be changed and cleaned immediately following a toileting accident.

C. Staff shall respond promptly to a request from a child for toileting assistance.

D. While awake, children shall not remain in a crib, baby bed, swing, high chair, carrier or playpen for more than 30 consecutive minutes.

E. Daily Reports for Infants. Written or electronic reports that include the liquid intake, food intake, disposition, bowel movements and eating and sleeping patterns shall be given to the parents of infants on a daily basis. Reports shall be kept current throughout the day.

F. Children shall not be held by a staff member when the staff member is removing a bottle from a warming device.

G. Pacifiers attached to strings or ribbons shall not be placed around the neck or attached to the clothing of a child.

H. Hot liquids shall not be consumed in the presence of children.

I. Staff members shall adhere to proper techniques for lifting a child.

J. Staff members shall not lift a child by one or both arms.

K. Staff and children shall wash their hands using soap at least at the following times: upon arrival at the center, before preparing or serving meals, before giving medication, after playing in water used by more than one person, after toileting, after helping a child use a toilet or changing diapers, after wiping noses or cleaning wounds, after handling pets and other animals, after playing in sandboxes, before eating meals or snacks, upon coming in from outdoors, after cleaning or handling garbage and anytime hands become soiled with body fluids, such as urine, saliva, blood or nasal discharge.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, LR 47:1279 (September 2021).

#### §1913. Water Activities

A. The center shall obtain written parental authorization for a child to participate in any water activities or water play activities as those activities are defined in §103.

B. Children under age three shall not engage in water activities due to the risk of contamination and disease.

C. The use of saunas, spas or hot tubs is prohibited.

D. Swimming, wading and boating is prohibited in lakes, ponds and other similar bodies of water.

E. The center shall have written procedures describing the method staff shall use to account for children and ensure their safety while engaged in water activities.

F. When children use a pool or other body of water with a depth of more than 2 feet, a certified lifeguard shall be present and supervising the children and may be counted in the child to staff ratio.

1. For on-site water activities, the center shall have documentation of the current certification of the lifeguard.

2. For off-site water activities, the center shall have documentation of the current certification of the lifeguard, whether the lifeguard is furnished by the center or the off-site water location.

G. A center shall have at least two staff members who are responsible for supervising children in swimming or wading pools or in other water activities, whether on-site or off-site, who are certified in infant, child, and adult CPR and pediatric first aid and shall maintain documentation of such certification.

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

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

### §1915. Health Services

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

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

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

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

11. injury or illness requiring professional medical attention.

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

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

F. Influenza Information. Centers shall provide each parent information concerning influenza immunization by November 1 of each year. The department shall provide information about influenza annually to each licensed center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:639 (April 2015), effective July 1, 2015, amended LR 44:1867 (October 2018).

### §1917. Medication Administration

A. Written Authorization. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent. Such authorization shall include:

1. name of child;
2. drug name and strength;
3. date(s) to be administered;
4. directions for use, including the route (oral, topical), dosage, frequency, time and schedule and special instructions, if any. It is not acceptable to note "as indicated on bottle"; and
5. signature of parent and date of signature.

#### B. Required Container/Packaging

1. For prescription medication to be administered at the center, the center shall maintain the original pharmacy container with the complete pharmacy label.

2. For non-prescription medication to be administered, the center shall maintain the original bottle packing for the medicine or a printed document from the manufacturer's website, which shall include the drug name and strength and clear directions for use.

C. All medication shall be sent to the center in its original container, shall not have an expired date, and shall be clearly labeled with the name of the child to ensure that medication is for individual use only.

D. If a non-prescription medication label reads "consult a physician," the early learning center shall also maintain a written authorization from a licensed health care provider for the child to take the medicine.

E. Aerosol. All aerosol medications shall be delivered to the center in pre-measured dosages.

F. Topical. The center shall not apply topical ointments, sprays or creams without a written authorization signed and dated by the parent.

G. Self-Administration. Children shall not administer their own medications without written authorization from the parent and such children shall administer medication in the presence of a staff person.

H. Records. Medication administration records shall be maintained for all children regardless of who administers the medication. Records shall include the following:

1. name of the child and medication name and dosage administered;
2. date and time medication administered;
3. documentation of telephone contact with parent prior to giving "as needed" medication;
4. signature of person administering medication or witnessing the child administering own medication;
5. signature of person completing the form; and
6. when a parent administers medication to his/her own child on center premises, the medication administration record shall be documented by either the parent or a staff member.

I. Authorization for "as needed" prescription and non-prescription medication shall be updated as necessary or at least every six months by the parent, and shall include circumstances for administering "as needed" medication and any applicable special instructions.

J. Medical Procedures. Children that require medical procedures such as tube feeding shall have specific instructions from a health care provider as part of the overall care plan for the child.

1. Administration of feedings or medications through a tube-feeding apparatus shall be performed by a staff member trained and authorized by the parent or individual designated by the parent.

2. Parental authorization and training shall be documented and shall include the name of child, date of training, name of staff trained, signature of staff trained, and signature of parent.

3. Documentation of feedings and medications administered shall include the name of child, date, time, what was administered, and signature of administering staff member.

#### K. Emergency Medications

1. Children who require emergency medications, such as an EpiPen or Benadryl, shall have a written plan of action that shall be updated as changes occur or at least every six months, and shall include:

- a. method of administration;
- b. symptoms that indicate the need for the medication;

- c. actions to take once symptoms occur;
- d. description of how to use the medication; and
- e. signature of parent and date of signature.

2. Medication administration records for emergency medication shall be maintained and include the following:

- a. symptoms that indicated the need for the medication;
- b. actions taken once symptoms occurred;
- c. description of how medication was administered;
- d. signature of administering staff member; and
- e. phone contact with the parent after administering emergency medication.

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

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

### §1919. Food Service and Nutrition

A. All meals and snacks provided by the center, and their preparation, service and storage, shall meet the requirements for meals of the U.S. Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP), 7 CFR 226.20, and LAC 51:XXIII.

B. The weekly menu shall:

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

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

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

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

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

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

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

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

E. Parents shall be allowed to provide breast milk or provided space to breastfeed their child on site.

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:640 (April 2015), effective July 1, 2015, amended LR 44:257 (February 2018), effective March 1, 2018, LR 44:1867 (October 2018), LR 47:1279 (September 2021).

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

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

1. address any potential disaster related to the area in which the center is located;

2. include procedures for sheltering in place, lockdown and evacuation to a pre-determined site for potential threats to the safety, health and well-being of children in care;

3. include specific procedures for handling infants through two year olds, including food and formula;

4. include specific procedures for handling children with special needs, including the evacuation and transportation of children in wheelchairs;

5. include a system to account for all children;

6. include a system, and a back-up system, for contacting parents and authorized third party release caretakers;

7. include a system to reunite children and parents following an emergency;

8. include procedures for providing information about the emergency plan to parents at the time of enrollment and when changes occur;

9. be reviewed annually for accuracy and updated as changes occur; and

10. be reviewed with all staff at least once per year.

11. practice drills shall be conducted at least twice per year to include all children and shall be documented.

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

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

1. a list of area emergency phone numbers;

2. a list of emergency contact information and emergency medical authorization for all enrolled children;

3. an emergency pick up form;

4. first aid supplies, hand sanitizer, wet wipes, and tissue;

5. diapers for children who are not toilet trained and plastic bags for diapers;

6. a battery-powered flashlight and radio and batteries or a crank flashlight and radio; and

7. disposable cups and bottled water.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:2173 (December 2016), LR 44:1867 (October 2018).

## Chapter 21. Minimum Transportation Requirements and Standards

### §2101. General Requirements (Center-Provided, Parent-Provided or Contract Transportation)

A. These general transportation rules apply to all transportation, whether for field trips or daily transportation.

1. Transportation arrangements shall conform to all state laws, as amended, including but not limited to those requiring the use of seat belts and child restraints.

2. Only one child shall be restrained in a single safety belt.

3. The number of persons in a vehicle shall not exceed the manufacturer's recommended capacity.

4. Children shall never be left unattended in a vehicle.

5. Each child shall enter and exit a vehicle from the curb side of the street or shall be escorted across the street.

6. Children shall not be transported more than 1 1/2 hours per trip on a routine basis.

7. Children shall not be transported to prevent the center from being over capacity.

8. Vehicles shall be maintained in good repair.

9. Each vehicle shall have evidence of a current safety inspection.

10. First aid supplies shall be located in each center vehicle or contracted vehicle. First aid supplies (at least one per trip) shall be available for each field trip when parents provide transportation.

11. Center emergency information shall be prominently posted in each vehicle and shall provide the name of the director and the name, phone number and address of the center.

12. The use or possession of alcohol or tobacco in any form, illegal substances, unauthorized toxic substances or firearms of any kind is prohibited in any vehicle used to transport children.

13. The center shall maintain a copy of a valid appropriate Louisiana or other state-issued driver's license for all individuals who drive vehicles used to transport children, whether said drivers are staff members or contracted drivers.

14. Centers shall maintain at all times current commercial liability insurance for the operation of center vehicles to ensure medical coverage for children in event of accident or injury. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment. The provider is responsible for payment of medical expenses of a child injured while in the center's care. Documentation shall consist of the insurance policy or current binder that includes the name of the early learning center, the name of the insurance company, policy number, period of coverage and

explanation of coverage. If transportation is provided by parents for field trips or transportation is provided by contract, whether daily or field trip, a copy of the current liability insurance shall be maintained on file at the center.

15. Centers using contract transportation shall maintain a copy of the written contract that includes an express provision stating that the contractor shall comply with all state laws and regulations, as amended, regarding motor vehicles, including but not limited to seat belts and child restraints.

16. Child Safety Alarm. In accordance with R.S. 32:295.3.1, a center may have a child safety alarm installed in any vehicle that has a seating capacity of six or more passengers in addition to the driver. This vehicle has to be owned or operated by the early learning center, its owner, operator, or employees and used to transport children to or from the early learning center. The child safety alarm is an ignition-based alarm system that voice prompts the driver to inspect the vehicle for children before exiting the vehicle and shall be installed by a person or business that is approved by the manufacturer of the child safety alarm. An owner or director of an early learning center who elects to have a child safety alarm installed in a vehicle owned or operated by the early learning center shall ensure that the child safety alarm is properly maintained and in good working order each time the vehicle is used for transporting children to or from an early learning center.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015.

### §2103. Daily Transportation (Contract or Center Provided)

A. Written authorization shall be obtained from a parent to transport a child on a regular basis. Such authorization shall include the name of the child, the type of transportation (to and from school, to and from home) and the names of individuals, schools, or other entities to whom the child may be released.

B. A staff person shall be present when a child is delivered to the center.

C. When children are picked up or dropped off at the center by a public or private school bus, staff shall be present to safely escort children to and from the bus.

D. Vehicle Staff

1. A driver and at least one staff member must be in a contracted or center-provided vehicle at all times when transporting children, and minimum child to staff ratios must be met. However, when transporting children ages four and older only, if the vehicle has a communication device that allows the driver to contact emergency personnel, and the driver does not leave the vehicle while children are present in the vehicle, only the driver is required to be present in the vehicle and minimum child to staff ratios are not required to be met.

2. A contracted driver shall be considered a staff member for purposes of this Subsection if the driver is in compliance with the transportation regulations in Chapter 21 of this bulletin, including but not limited to maintaining a daily passenger log in compliance with §2103.F, and completing and documenting a visual passenger check of the vehicle at the end of each route in compliance with §2107.A.

3. At least one staff member on the vehicle and accessible to children shall have current certification in infant and child CPR.

E. Master Transportation Log

1. A copy of the current master transportation log shall be maintained on file at the center and shall include the names of the children, the pickup and drop off locations, and the authorized persons to whom the children may be released. Documentation shall be maintained whether transportation is provided by the center or contracted.

2. Each driver or bus monitor, whether provided by the center or through a contractor, shall be provided a current master transportation log.

F. Passenger Log

1. A current passenger log for each trip shall be used to track children and staff during transportation.

2. The log shall be maintained on file at the center and a copy shall be provided to the driver or bus monitor.

3. The following shall be recorded in the passenger log:

- a. date the transportation is provided;
- b. name of the child;
- c. name of driver and staff members;
- d. pick up and drop off locations;
- e. time child was placed on the vehicle;
- f. time child was released and name of the person or entity to whom child was released; and
- g. signature of staff person completing the log.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015, amended LR 42:556 (April 2016), LR 44:257 (February 2018), effective March 1, 2018.

**§2105. Field Trips**

A. The center shall obtain and maintain a signed parental authorization for each field trip.

B. At least two staff, one of whom may be the driver, shall be in each vehicle, unless the vehicle has a communication device and the child to staff minimum ratio is met in the vehicle.

C. If transportation is provided by parents, a planned route shall be provided to each driver and a copy maintained

in the center if any parent is transporting a child in addition to their own child.

D. Children shall be supervised during the boarding and exiting of vehicles by an adult who remains outside of the vehicle.

E. A written or electronic record for each field trip shall be maintained and shall include the following:

- 1. date, destination(s) and method of transportation;
- 2. names of all the children being transported in each vehicle;
- 3. names of the driver, staff members and other adults being transported in each vehicle;
- 4. names of other adults who joined the field trip at the destination(s) to assist with supervision of children; and
- 5. the presence of each child each time the children enter or exit the vehicle.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015, LR 47:1279 (September 2021).

**§2107. Motor Vehicle Passenger Checks**

A. A visual passenger check of a vehicle is required to ensure that no child is left in the vehicle.

1. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the interior of the vehicle.

2. The staff member shall record the time of the visual passenger check and sign the log, indicating that no child was left on the vehicle.

B. For field trips, each vehicle shall have a visual passenger check and a face-to-name count conducted at all of the following times:

- 1. prior to leaving center for destination;
- 2. upon arrival at and prior to departure from each destination; and
- 3. upon return to center.

C. For daily transportation services, the vehicle shall have a visual passenger check made at the completion of each trip or route, prior to the staff member exiting the vehicle.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015.

**§2109. Non-Vehicular Excursions**

A. Written parental authorization shall be obtained for all non-vehicular excursions. Authorization shall include the name of the child, type and location of the activity, date and

signature of the parent, and shall be updated at least annually.

B. Centers shall maintain records of all non-vehicular excursion activities to include the date, time, list of children, staff, and other adults, and type of activity.

C. Children shall not be taken on any vehicular or non-vehicular excursion to prevent the center from being over capacity. Children on excursions shall be included when

determining whether the center is within its licensed capacity.

D. See §1711.K for child to staff minimum ratios applicable to non-vehicular excursions.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:643 (April 2015), effective July 1, 2015).