

UPDATED INFORMATIVE DIGEST

These proposed regulations revise specific provisions and adopt new language in Title 22, Division 12, Chapter 3, Section 102351.1 et. seq. (Family Day Care Homes for Children).

The California Child Day Care Facilities Act provides for the licensing and regulation of child day care facilities, including Family Child Care Homes, by the California Department of Social Services (CDSS). In 2003, the legislature enacted Assembly Bill (AB) 529 (Chapter 744, Statutes of 2003), which amended Sections 1597.44 and 1597.465 relating to the number of children permitted to be cared for at any one time in small and large Family Child Care Homes. In 2010, the legislature enacted Senate Bill (SB) 1381 (Chapter 705, Statutes of 2010), which amended Sections 46300, 48000 and 48010 of the Education Code relating to kindergarten and establishing "transitional kindergarten" as the first year of a two-year kindergarten program.

Section 1597.44 of the Health and Safety (H&S) Code authorizes a Small Family Child Care Home to provide child care for more than six and up to eight children if certain conditions are met. Section 1597.465 of the H&S Code authorizes a Large Family Child Care Home to provide child care for more than 12 children and up to 14 children if certain conditions are met. Prior to AB 529, one of these conditions applicable to both small and large Family Child Care Homes was that at least two of the children be at least six years of age. AB 529 changed the law to permit the aforementioned condition to be met if at least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

These proposed regulations aim to conform to AB 529 and SB 1381 and to clarify capacity requirements for Family Child Care Homes. Specifically, the proposed regulations do the following: clarify the notification and documentation requirements for licensees that wish to care for more than six and up to eight children in a Small Family Child Care Home and more than 12 and up to 14 children in a Large Family Child Care Home; clarify which children are counted in the capacity; clarify when an assistant provider must be present in a Family Child Care Home; clarify that the capacity specified on the license shall be for the maximum number of children for whom care may be provided at any one time; and specify landlord notification and documentation requirements for licensees that operate in a rental property in conformity with Section 1597.40(d) of the H&S Code.

In addition, the proposed regulations define "school-age child" for the purpose of meeting the criteria in Sections 1597.44 and 1597.465 of the H&S Code only (caring for two additional children), clarify that "enrolled in and attending kindergarten" includes transitional kindergarten for the purpose of meeting the criteria in Sections 1597.44 and 1597.465 of the H&S Code and require that verification of kindergarten/elementary school enrollment/attendance and parent notification of additional children in care be kept on file.

This regulatory action will benefit licensees of Family Child Care Homes because it will clarify the documentation requirements related to caring for up to two additional children and to notifying the property owner/landlord, as well as clarify how capacity is determined and when an

assistant provider is required to be present at a Family Child Care Home. It will benefit licensees and families of children in care at licensed Family Child Care Homes because this action will clarify what is required of a licensee when he/she seeks to care for up to two additional children. These regulations will also increase protection of health and safety in Family Child Care Homes. It will help the Department staff tasked with monitoring and enforcing the H&S Code and associated regulations via licensing visits because these revisions will clarify how to determine licensed capacity, when an assistant provider is required and will establish record keeping requirements.

In addition to the proposed regulations, the following forms are incorporated by reference. They were made available during the 45-day public comment period but were erroneously omitted from listing on the Public Notice. Therefore, they are listed here for consistency and clarity:

- LIC 9149 (8/14), Property Owner/Landlord Consent Family Child Care Home
- LIC 9150 (8/14), Parent Notification Additional Children in Care
- LIC 9151 (7/14), Property Owner/Landlord Notification Family Child Care Home

Post-hearing changes:

The regulations were noticed on December 26, 2014. Testimony was received during the 45-day public comment period and changes were made to the proposed regulations as a result of the testimony. Those changes include:

Amending Section 102416.5(g) to read:

- (g) For the purpose of meeting the criteria in Sections 1597.44 and 1597.465 of the Health and Safety Code, for a school age child who is under age six, the licensee shall maintain documentation verifying the child's enrollment and attendance at kindergarten, including transitional kindergarten, or elementary school.
 - (1) The documentation requirement shall be met by either of the following:
 - (A) Documentation from the school in which the child is enrolled and attending verifying the child's enrollment and attendance, or
 - (B) A signed and dated statement from the child's authorized representative verifying the child's enrollment and attendance.
 - (2) The documentation and statement described in paragraph (1) shall include the name of the child, the name of the school the child is enrolled in and attending, the date of the child's enrollment, and the date the child started attending the school.

- (3) The licensee shall obtain the documentation or statement described in paragraph (1) at the beginning of each school year, no later than 30 calendar days from the date the child begins attending school, until the child is six years of age. If a child enrolls in and begins attending school after the school year has commenced, then the licensee shall obtain the documentation or statement described in paragraph (1) upon enrollment or within 30 calendar days following the child's enrollment.
- (4) The documentation and statement described in paragraph (1) shall be maintained in the child's record pursuant to Section 102421.

As a result of these post-hearing changes, this regulations package underwent a 15-day renote public comment period from November 18, 2015, to December 2, 2015. During this time frame, the 15-day Renote Letter, Updated Informative Digest, Final Statement of Reasons, Modified Regulations Text and the forms incorporated by reference were made available to the public via e-mail and the Department's website. No additional amendments were made to the regulations text following the comment period.