

**MINIMUM STANDARDS  
FOR  
DAY CARE CENTERS  
AND  
NIGHTTIME CENTERS  
REGULATIONS AND PROCEDURES**

*Prescribed by:*

**State of Alabama**  
**Department of Human Resources**  
*AN AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER*

**Effective January 22, 2001**

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DEPARTMENT OF HUMAN RESOURCES  
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**1974**

**Revised 1978**

**Revised 1980**

**Revised 1982**

**Revised 1988**

**Revised 2001**

**Revised 2002**

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**Revised 2005**

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# I. LEGAL AUTHORITY

**The legal authority for regulation of child care is based on:**

Child Care Act of 1971-Title 38, Chapter 7, Code of Alabama 1975, 38-7-1 et. seq. (Acts 1971, 3rd Ex. Sess. No. 174, p. 4423, Sections 1 - 18.) (See Appendix R, page 105, for details.)

Title 41, Chapter 22, Section 19, 41-22-19, see also 41-22-1 et. seq. (See Appendix R, page 123)

Title 26, Chapter 14, 26-14-1 et. seq. (See Appendix R, page 117.)

Administrative Code, Section 660-5-26

Hearings and Appeals (See Section K, page 66)

**NOTE: Excerpts of the above-referenced laws are printed in this document as a resource. These laws are not a part of the regulations promulgated by the Department of Human Resources.**

## II. REGULATIONS

### A. Definitions

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

1. **ADULT.** Any person 19 years of age or older.
2. **AIDE.** A person who does not meet the qualifications of a child care worker/teacher, works under the direct supervision of a qualified child care worker/teacher and is not counted in the required staff-child ratios.
3. **CHARACTER AND SUITABILITY.** The person maintains business, professional, family, and community relationships which are characterized by honesty, fairness, truthfulness, and concern for the well-being of others to the extent that the person is considered suitable to be entrusted with the care, guidance, and protection of children.
4. **CHILD.** Any person under 19 years of age.
5. **CHILD ABUSE AND NEGLECT.** According to the Code of Alabama 1975, Section 26-14-1, abuse is defined as harm or threatened harm to a child's health or welfare. Harm or threatened harm to a child's health or welfare can occur through nonaccidental physical or mental injury, sexual abuse or attempted sexual abuse or sexual exploitation or attempted sexual exploitation. "Sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in any sexually explicit conduct or any simulation of the conduct for the purpose of producing any visual depiction of the conduct; or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children as those acts are defined by Alabama law. "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes. Neglect is defined as negligent treatment or maltreatment of a child, including the failure to provide adequate food, medical treatment, supervision, clothing or shelter.
6. **CHILD CARE WORKER/TEACHER.** A person having primary responsibility for the care of a group of children and meeting the specified qualifications, who may be counted in the required staff-child ratio while he/she is giving direct care to the children.
7. **COMMISSIONER.** The Commissioner of the Alabama State Department of Human Resources.
8. **DAY CARE CENTER.** . In the context of these regulations, day care shall begin no earlier than 5:00 a.m. Nighttime care shall begin at 7:00 p.m. Additional requirements for centers operating after 7:00 p.m. and for centers operating past midnight can be found in Section I.,

Nighttime Care. A day care center is defined in the Code of Alabama 1975, Section 38-7-2, (4) as follows. Any child-care facility receiving more than twelve (12) children for daytime care during all or part of a day. The term "day care center" includes, but is not limited to, facilities commonly called "child-care centers", "day nurseries", "nursery schools", "kindergartens", and "play groups", with or without stated educational purposes. The term further includes, but is not limited to, kindergarten or nursery schools or other daytime programs operated as a part of a private school and receiving children younger than lawful school age for daytime care for more than four hours a day, with or without stated educational purposes. The term does not include any of the following:

- (a) Kindergartens or nursery schools or other daytime programs operated by public elementary systems or secondary level school units or institutions of higher learning;
- (b) Kindergartens or nursery schools or other daytime programs, with or without stated educational purposes, operating no more than four hours a day and receiving children younger than lawful school age.
- (c) Kindergartens or nursery schools or other daytime programs operated as a part of a private school and receiving children younger than lawful school age for four hours a day or less, with or without stated educational purposes;
- (d) Facilities operated for more than four hours a day in connection with a shopping center or service or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available; provided, however, that such facilities shall meet local and state fire and health requirements;
- (e) Any type of day care center that is conducted on federal government premises; or
- (f) Special activities programs for children of lawful school age including, but not limited to, athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations; provided, however, that local and state fire and health requirements are met.

- 9. **DEPARTMENT.** The State or County Department of Human Resources.
- 10. **DEPARTMENT'S REPRESENTATIVE.** An employee or designee of the State or County Department of Human Resources, acting as the authorized agent of the Commissioner in carrying out the responsibilities and duties specified in Code of Alabama 1975.
- 11. **DIRECTOR or CENTER DIRECTOR.** The staff person responsible for the day to day operation and management of the center including supervision of the planning and implementing of the children's daily activities and supervision of staff.
- 12. **FACILITY FOR CHILD CARE or CHILD-CARE FACILITY.** A facility established by any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in this chapter, established and maintained for the care of the children.

13. **LAWFUL SCHOOL AGE.** For purposes of these regulations, this term includes children who are five (5) years of age on or before September 1, (or the date on which school begins in the enrolling district pursuant to Code of Alabama 1975, § 16-28-4) of a given year. This definition corresponds with the minimum age at which a child is entitled to admission to public school kindergarten.
14. **LICENSEE.** Any person, group of persons, or corporation, to whom the license, permit, or approval is issued.
15. **NIGHT CARE FACILITY.** A child-care facility which is a center or a family home receiving a child or children for care after 7:00 p.m. Additional requirements for centers operating after 7:00 p.m. and for centers operating past midnight can be found in Section I., Nighttime Care.
16. **NIGHTTIME CENTER.** A facility which is established to receive more than 12 children for nighttime care after 7:00 p.m. Additional requirements for centers operating after 7:00 p.m. and for centers operating past midnight can be found in Section I., Nighttime Care.
17. **PARENT(S)/GUARDIAN(S).** The parent(s) or legal guardian(s) or legal custodian, of the child enrolled or in the process of being enrolled in a child care center.
18. **RELATED.** Any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, halfbrother, halvesister, uncle or aunt, and their spouses.
19. **RESOURCE PERSON.** A person who visits the center for the purpose of enhancing the program, has no direct responsibility for the care of the children, is not counted in the required staff-child ratios, is constantly supervised by staff and is **never** alone with a child or children.
20. **SPECIAL EDUCATION SERVICES STAFF.** Personnel employed by the Alabama Department of Education or local school system who provide special education services to children in licensed centers and are certified teachers or certified therapists. Special education services may include but are not limited to speech therapy, physical therapy, occupational therapy or other services specified in an Individualized Education Plan (IEP). Special Education Services Staff are not considered center staff and are not required to comply with the regulations for center staff or to have a record on file in the center. For each child receiving special education services, the Alabama Department of Education or the local school system shall provide the center with a copy of the child's IEP, including signed permission from the child's parent(s)/guardian(s) for the child to receive services. When Special Education Services Staff provide services to a child in a licensed child care center, the individual shall present photographic identification verifying employment with the Department of Education or the local school board and a copy of their suitability letter, documenting that a criminal history background check has been performed by the Department of Education and the individual has been determined suitable. *(Added effective February 8, 2005)*

21. **STAFF or CENTER STAFF.** Administrative, program, or service personnel, whether paid or unpaid, including the licensee when the licensee is an individual. Special Education Services Staff are excluded, provided they meet the requirements stated in definition 20 above. *(Revised effective February 8, 2005)*
  
22. **SUPERVISION.** Responsibility for each child and accountability for his/her care by giving direct and full attention to the children.

## **B. Licensing Procedures**

### **1. Application for a License**

- a. Child care (day care or nighttime care) shall not be provided or advertised prior to issuance of a license, six-month permit, or approval.
- b. Any person, group of persons or corporation may obtain an application form for a license to operate a child care center by contacting the Department of Human Resources. (See Code of Alabama 1975, Section 38-7-4, in Appendix R, page 105).
- c. An application for a license to operate a child care center shall be made to the Department of Human Resources on the required form(s) and shall contain all information requested on the form(s). (See Appendix A, page 74, for required form(s).) A separate application shall be submitted for each proposed center.
- d. An application for a license is not transferable from one person, group of persons, or corporation to another or from one location to another.
- e. The Licensing Application Attachment shall be submitted to the Department, on the required form, prior to a license, six-month permit, or approval being issued. (See Appendix B, page 80, for required form.)

### **2. Prohibited Advertisement**

- a. No person, unless licensed or holding a six-month permit, may cause to be published any advertisement which solicits a child or children for care. To solicit a child or children for care means, among other similar actions or terms, to invite, appeal, plead, lure, beg, request, offer, suggest, promote, or implore. Both free and paid advertisement is prohibited. (See Code of Alabama 1975, Section 38-7-12, in Appendix R, page 113).
- b. Prohibited advertisement includes, but is not limited to, printed and published material; descriptive literature and aids; speeches, talks, and presentations; flyers; booklets and pamphlets; signs and posters; illustrations and depictions; newspaper, radio, television, magazine, Internet, and other media advertising; letters and direct mail advertising; and any materials used by agents. Prohibited advertisement also includes printed and illustrated material or descriptions on cups, mugs, pens, pencils, or other objects.

- c. The following activity does not constitute prohibited advertisement:
  - (1) Advertisement using a name and address seeking employment applications for staff positions; provided that a license application has been filed with the Department and the advertisement includes the clearly visible phrase, “license application pending.”
  - (2) “Under Construction,” “Renovation,” or “Remodeling” signs (with or without name and address) on the premises; provided that a license application has been filed with the Department and the sign includes the clearly visible phrase, “license application pending.”
  - (3) A market survey to determine the need for child care in a locality. Using the name and address of the business or individual is permitted so long as it does not solicit a child or children for care or promote the business.

### **3. Examination and Investigation of the Application**

- a. After receipt of the completed application, a representative of the Department of Human Resources will examine the premises proposed for the center and will investigate the person(s) responsible for the center.
- b. The examination and investigation will be based on the minimum standards and regulations as prescribed and published by the Department.

### **4. Disposition of the Application**

- a. When minimum standards for the operation of a center have been met, a license will be issued.
- b. If an application is denied, the Department shall notify the applicant of the decision in writing, indicating the reason(s) for the denial.
- c. The applicant may withdraw the application either verbally or in writing.

### **5. Six-Month Permit**

- a. The Department may, at its discretion, issue one six-month permit to allow the applicant/center reasonable time to become eligible for a full license. Before a six-month permit is issued by the Department, all minimum standards shall be met with the exception of one half of the required equipment, indoor and outdoor, for each age group to be served. (See Section L., page 68, for Required Equipment Lists.)
- b. The total number of children in the care of the center at any given time, including children on the premises (inside and outside), children in transit, and children on

field trips or other center activities, shall not exceed the number specified on the permit.

- c. The age range of the children served shall not vary from the limits specified on the permit.
- d. The permit is not transferable from one person or group of persons or corporation to another, nor from one building or location to another.
- e. During the six-month permit period, the initial application for a license remains pending. A two year license will be issued when the center meets minimum standards.
- f. If the application is denied for failure to meet minimum standards during the six-month permit period, the center shall not continue to operate.

## **6. Renewal of a License**

- a. Application for renewal of a license to continue operating a child care center shall be made to the Department at least thirty (30) calendar days prior to the expiration date of the current license, and shall be on the required form(s). (See Appendix A, page 74, for required form(s).) It is the sole responsibility of the licensee to obtain the required form(s) and to submit the form(s) to the Department on time.
- b. A renewal of a license shall be issued, if, upon investigation and re-examination, the child care center continues to meet and maintain minimum standards prescribed and published by the Department.
- c. If, upon inspection and re-examination, minimum standards are not met, appropriate corrective or adverse action shall be instituted. (See Section J, page 61, for additional information.)
- d. The center's license continues in effect until a decision is made by the Department on the application for renewal, provided that the application for renewal is timely (received at least thirty (30) calendar days prior to the expiration date of the current license) and sufficient (complete and accurate). (See Code of Alabama 1975, Section 41-22-19, in Appendix R, page 123.)
- e. If the application for renewal is not timely (not received at least thirty (30) calendar days prior to the expiration date of the current license) and sufficient (not complete and accurate), the center's license will expire on the expiration date shown on the license. If the licensee continues to operate the center after the expiration date, the licensee will be reported to the District Attorney and the Attorney General for operating an unlicensed child care facility.

**7. Department Visits, Inspections, Investigations, Examinations, and Consultation**

- a. Visits to the center are made by representatives of the Department to determine if minimum standards are met, to investigate a complaint and to offer consultation.
- b. Visits made for the purpose of determining compliance with minimum standards or investigating a complaint shall be made without prior notice. Prelicensing visits may be made by appointment.
- c. The applicant/licensee may request consultation.
- d. The licensee shall be informed of complaints of alleged licensing violations made to the Department against the center/licensee.
- e. The licensee/center staff shall not be informed of the identity of the complainant by the Department.

**8. Provisions of the License, Six-month Permit, or Approval**

- a. Licenses issued by the Department to day care centers and nighttime centers are valid for two years, as shown on the license, unless revoked or suspended by the Department or voluntarily surrendered by the licensee.
- b. The total number of children in the care of the center at any given time, including children on the premises (inside and outside), children in transit, and children on field trips or other center activities, shall not exceed the number specified on the license, permit, or approval.
- c. The age range of the children served shall not vary from the limits specified on the license, permit, or approval.
- d. The license, permit, or approval is not transferable from one person or group of persons or corporation to another, nor from one building or location to another.
- e. The Department and its authorized representatives shall have the right to inspect:
  - (1) any child care facility seeking a license;
  - (2) any child care facility seeking renewal of a license;
  - (3) any child care facility which is operating under a license or six-month permit or approval.Such inspection shall be made at any reasonable time, without prior notice, and may include the entire facility and grounds. Prelicensing visits may be made by appointment.

- f. The Department shall have the right to immediately suspend, limit, or restrict the license, permit, or approval of a child care facility when conditions hazardous to the health and safety of the children exist, including but not limited to:
- (1) The right to restrict, limit, or suspend specific activities provided by the child care facility, such as but not limited to: away-from-facility activities; transportation of the children; swimming.
  - (2) The right to restrict or limit the use of specific areas of the facility, such as but not limited to: outdoor play areas; bathrooms; rooms/activity areas used by the children.
  - (3) The right to reduce the licensed, permitted, or approved capacity of the facility due to restricted use of required space or bathroom facilities or lack of qualified staff to meet required staff-child ratios. (See Section D., 1., a., page 23, for requirements.)

## **C. Facilities**

### **1. Fire Inspection**

Prior to being issued an initial license, six-month permit, or approval, the applicant shall submit a written fire department inspection report, **with no violations cited**, to the Department of Human Resources. Subsequent inspections may be requested by the licensee, center director, or by the Department of Human Resources. Copies of such inspection reports shall be submitted to the Department. Copies shall also be posted in the center.

### **2. Health Inspection**

Prior to being issued an initial license, six-month permit, or approval, the applicant shall submit a written health department inspection report to the Department of Human Resources. If food is prepared at the center, a copy of a current health department food permit shall also be submitted. If food is not prepared at the center, but is served by the center, the applicant shall obtain written approval of the food service plan from the health department, if available, and submit a copy of this approval to the Department of Human Resources. Subsequent inspections may be requested by the licensee, center director, or by the Department of Human Resources. Copies of such inspection reports shall be submitted to the Department. Copies shall also be posted in the center.

### **3. Zoning Approval**

Prior to being issued an initial license, six-month permit, or approval, the applicant shall submit a written statement of compliance with applicable zoning requirements to the Department. If no zoning laws or ordinances are applicable, the applicant shall submit a written statement verifying he/she has checked with the local governing authority and there are no applicable zoning laws or ordinances.

### **4. Indoor Area**

#### **a. Exclusive use**

Activity areas to which the children in care are assigned shall be used exclusively by the children during operating hours. When lunchroom facilities are shared with other groups, children receiving center care shall be seated together, apart from other groups.

#### **b. Space per child**

There shall be at least 32 square feet of indoor activity space for each child. Bathrooms, kitchens, isolation room, office, halls used as passageways, and storage areas shall not be considered when computing activity space.

- c. Space for groups  
Designated areas of indoor activity space shall be provided for each grouping of children. (See Section D., 1., a., page 23, for requirements regarding grouping of children.)
- d. Bathroom facilities
  - (1) Location  
Bathrooms shall be located on the same floor level and under the same roof as activity areas.
  - (2) Number of fixtures:
    - (a) at least one flush toilet for every 15 children;
    - (b) at least one handwashing sink for every 15 children;
    - (c) at least one tub (portable plastic type acceptable) per center.
  - (3) Size of fixtures  
The toilets and handwashing sinks used by the children shall be child size in height, or shall be adjusted for easy use with sturdy platforms, seat adapters, or both, as needed.
- e. Diapering facilities  
One handwashing sink with warm running water, soap, and disposable paper towels, shall be located in each room where children are diapered. (See Section D., 1., b., (1), page 24, regarding staff coverage and supervision of the children.)
- f. Space for ill or injured children  
Space shall be provided for a child who becomes ill or is injured at the center. Items used by an ill child shall be disinfected before being used by another child.
- g. Storage space for children and staff
  - (1) Each child shall have individual, labeled storage space. For children age 2½ years and older, the space shall be at child level.
  - (2) Shelving, accessible to the children, shall be provided for the play equipment and supplies, in areas used by children.
  - (3) Storage space shall be provided for storage of teacher's supplies and reserve equipment.
  - (4) Shelving that can be tipped over by an adult shall be securely anchored, so that it does not pose a risk to children.
- h. Office space shall be provided for storage of records and to afford privacy for conferences.
- i. Ventilation, lighting, and heating in areas used by children.
  - (1) Heating and air conditioning shall be provided as appropriate to the season. Currently licensed centers that do not have air conditioning shall provide air conditioning by August 31, 2003.
  - (2) The temperature shall be maintained between 68 and 82 degrees Fahrenheit, at child level.

- (3) There shall be a thermometer in each area used by the children to monitor the temperature of the area. Thermometers shall be out of reach of the children.
  - (4) Outside windows that are opened shall be securely screened.
  - (5) Outside doors shall be kept closed.
  - (6) Lighting shall be maintained at a level that will enable the children to participate in center activities.
  - (7) During napping/resting, lighting shall be maintained at a level that will enable children to be visible.
- j. There shall be an operational telephone in the center for center business only. The Department shall be notified if the center's telephone is out of service. The Department shall be notified of any change in the center's telephone number.
- k. Hazard prevention
- (1) The center shall be free from apparent hazardous conditions.
  - (2) All flammable, poisonous and other hazardous substances and materials shall be kept under lock and key or combination lock. All containers shall be labeled with the name of the substance or material it contains.
  - (3) No firearms or ammunition shall be kept or allowed in the center with the exception of law enforcement officers.
  - (4) Stairways used by the children shall have hand railings within child's reach.
  - (5) Clear glass doors shall be plainly marked at child level, to avoid accidental impact.
  - (6) Medicines and drugs for children or staff shall be kept under lock and key or combination lock, in a separate location away from toxic chemicals and other harmful items. (See Section D., 6., a., (5) page 33, for additional requirements regarding medication.)
  - (7) Barriers shall be erected around radiators, heaters, and fans that are accessible to the children.
  - (8) Exposed electrical outlets shall have protective covers. The covers shall be large enough to prevent being swallowed.
  - (9) Consumption or possession of alcohol or use of non-prescription narcotic or illegal substances is prohibited on the center premises.
  - (10) Smoking or tobacco usage is prohibited on the center premises.
- l. The center shall be clean.
- (1) Cleaning shall be done daily. Floors and bathroom fixtures shall be cleaned and disinfected daily or more often as needed. Carpets shall be vacuumed daily.
  - (2) Cleaning shall not interfere with children's activities.

## **5. Outdoor Area**

- a. For centers initially licensed, permitted, or approved after the effective date of these regulations, an off-street area for loading/unloading children shall be provided.
- b. For centers initially licensed, permitted, or approved after the effective date of these regulations, outdoor play area per child shall be:
  - (1) In centers with a licensed, permitted, or approved capacity of less than 60 children, there shall be at least 60 square feet of outdoor play area for each child;
  - (2) In centers with a licensed, permitted or approved capacity of 60 or more children, there shall be at least 60 square feet of outdoor play area for each child for at least one-half of the center's licensed, permitted, or approved capacity.
- c. Separate play areas shall be provided for children younger than age 2½ years. This may be achieved by scheduling alternate play periods.
- d. Outdoor play areas shall adjoin, or be safely accessible to, the indoor area.
- e. Outdoor play areas on the premises shall be enclosed by a fence or wall at least four (4) feet in height. The fence or wall shall be free from sharp protruding edges. Gates shall be secured.
- f. Shade and sun areas shall be provided.
- g. The outdoor play area shall be free of apparent hazardous conditions.
  - (1) Concrete or asphalt shall not be used under outdoor playground equipment, except wheel toys.
  - (2) The outdoor play area shall be well-drained.
  - (3) Playground equipment which is not designed to be portable shall be securely anchored so that it can not be tipped over by an adult.
- h. Stairways or steps used by the children shall have hand railings within child's reach.

## **6. Swimming and Wading at the Center**

- a. Parent(s)/guardian(s) permission:  
Written permission signed by each child's parent(s)/guardian(s) shall be on file in the center for each child participating in swimming or wading activities.
- b. Pools two (2) feet or more in depth:
  - (1) A lifeguard shall be at poolside at all times the pool is in use. Each lifeguard shall have a current American Red Cross Lifeguard Training Certificate, a current First Aid Certificate, and current Infant-Child (Pediatric)

Cardiopulmonary Resuscitation Certificate (CPR). A copy of each certificate shall be on file in the center. On-line CPR and First Aid training are not acceptable. *(Revised effective December 7, 2007)*

- (2) The lifeguard shall **not** be counted in the staff-child ratio for children in the pool.
- (3) The staff-child ratio for children in the pool shall be:
  - (a) 1 staff for each child younger than 2½ years of age;
  - (b) 1 staff for every 4 children ages 2½ years up to 4 years;
  - (c) 1 staff for every 6 children ages 4 years up to 6 years;
  - (d) 1 staff for every 10 children ages 6 years and older.

<b>Ages</b>	<b>Staff to Child Ratio</b>
0 up to 2½ years	1 to 1
2½ years up to 4 years	1 to 4
4 years up to 6 years	1 to 6
6 years and older	1 to 10

- (4) Ratios shall be determined by the age of the youngest child in the pool.
- (5) Persons counted in the staff-child ratios for children in the pool shall meet child care worker qualifications, and shall be in the pool at all times. (See Section F., 1., b., page 39, for qualifications.)
- (6) In addition to the lifeguard and persons counted in the staff-child ratios for children in the pool, staff meeting child care worker qualifications shall be provided to supervise any child or children in the enclosed pool area (inside the fence), but not in the water. Required staff-child ratios as stated in Section D., 1., a, on page 23, shall be met for children not in the water.
- (7) If any part of a child's body is in the water, the child shall be considered to be in the pool and shall be counted in the staff-child ratios for children in the pool.
- (8) Pools (above-ground on in ground) shall be enclosed with a fence or a solid wall with no doors, windows, or other openings. The fence or wall shall be at least four (4) feet in height, and shall be constructed to prevent accessibility by children. The sides of an above-ground pool shall not be considered a fence or wall. Gates and all other access areas shall be locked when the pool is not in use.

c. Wading structures less than two (2) feet in depth:

- (1) There shall be at least one (1) staff person with a current Infant-Child (Pediatric) Cardiopulmonary Resuscitation Certificate (CPR) and a current First Aid Certificate, present at each wading structure at all times children are in the wading area. A copy of the CPR and First Aid Certificates shall be on file in the center. On-line CPR and First Aid training are not acceptable.

(Revised effective December 7, 2007) Required staff-child ratios as stated in Section D., 1., a., on page 23, shall be met at all times.

- (2) There shall be at least two (2) staff at each wading structure at all times it is in use.
- (3) Clean water shall be provided each day.
- (4) The wading structure shall be emptied when not in use.

## 7. Away from center activities

***NOTE: THE DEPARTMENT OF HUMAN RESOURCES DOES NOT INSPECT AWAY-FROM-CENTER ACTIVITIES, INCLUDING SWIMMING OR TRANSPORTATION OR ANY OTHER ACTIVITIES. THE LICENSEE SHALL ASSUME FULL AUTHORITY AND RESPONSIBILITY FOR ACTIVITIES AWAY FROM THE CENTER.***

***IF THE CENTER PROVIDES ACTIVITIES AWAY FROM THE CENTER, A WRITTEN STATEMENT, SIGNED BY EACH CHILD'S PARENT(S)/GUARDIAN(S), SHALL BE ON FILE IN THE CENTER PRIOR TO THE CHILD'S PARTICIPATION IN SUCH ACTIVITIES. THE STATEMENT SHALL INDICATE THAT THE PARENT(S)/GUARDIAN(S) HAS/HAVE BEEN INFORMED THAT THE DEPARTMENT OF HUMAN RESOURCES DOES NOT INSPECT ACTIVITIES PROVIDED AWAY FROM THE CENTER AND THAT THE LICENSEE ASSUMES FULL RESPONSIBILITY FOR SUCH ACTIVITIES.***

## 8. Furnishings and Equipment

- a. Size  
The furniture and equipment shall be appropriate for the age and size of the children.
- b. Condition
  - (1) Equipment and furniture shall be in operative condition, free of sharp, loose, or rusty parts.
  - (2) Equipment and furniture shall be easily cleaned and kept in a clean and safe condition.
  - (3) Equipment and furniture used by infants and toddlers shall be free of small parts that could be swallowed.
  - (4) Equipment and furniture made of easily breakable materials shall not be used.
- c. Amount and type of furnishings to be provided by the center
  - (1) There shall be table space for each child who is able to sit at the table.
  - (2) There shall be a straight chair, with a back, without arms, for each child who is able to use a chair. **Children's desks are prohibited.**
  - (3) A feeding chair shall be provided for children who do not eat at the table.

- (4) There shall be a crib, manufactured with slats no more than  $2\frac{3}{8}$  inches apart, provided for each infant. Each crib shall have a firm, waterproof mattress that fits snugly against all sides of the crib. Mattresses shall be in good condition with no tears or exposed foam rubber or other stuffing material. **Stacked cribs or multiple crib units are prohibited.**
  - (5) There shall be a washable cot for each toddler and preschool child and any school-age child who naps. (See Section D., 3., b., (2), page 29, for information on Napping/Resting requirements.)
- d. Arrangement  
For each group of children, indoor equipment and furnishings shall be arranged in an orderly manner, in designated activity areas.
- e. Amount and type of equipment to be provided by the center
- (1) The amount and type of equipment shall be determined and supplied for each age group according to Section L., page 68, the Required Equipment List. (Substitutions of equipment may be considered by the Department upon written request.)
  - (2) With written approval from the Department, stated pieces of equipment may be shared by no more than two groups of children.
  - (3) Equipment shall be available for and used by the children.
  - (4) Equipment shall be kept in clean and safe condition.

## D. Child Care Program

### 1. Staffing

- a. **Required ratios shall be maintained at all times.** (Note: Specific ratios are required for swimming or wading activities (see page 20) napping/resting time (see page 24), transportation (see page 36), and nighttime care (see page 59).

- (1) **Staff-child ratio shall be:** *(Revised effective July 8, 2005)*

<b>Age</b>	<b>Staff to Child Ratio</b>
0 up to 18 months	1 to 5
18 months up to 2½ years	1 to 7
24 months up to 36 months	1 to 8
2½ years up to 4 years	1 to 11
4 years up to school age*	1 to 18
School age* up to 8 years	1 to 21
8 years and older	1 to 22

*\* The term "school age" in this context refers to children of lawful school age as defined in Section A., 13, page 9, who are enrolled in public or private school.*

- (2) **Children younger than age 2½ years shall be grouped separately from children older than 2½ years of age.** An exception for a group of children, ages 24 months to 36 months, with the ratios indicated above is allowed. Other exceptions may be permitted with written approval from the Department representative. Such exceptions would allow children to be grouped based on individual children's needs.
- (3) When children of different ages are grouped together (multiple age grouping), staff-child ratio shall be according to the age of the youngest child in the group if more than 20% of the children are in the youngest age category. If children in the youngest age category make up 20% or less of the group, staff-child ratio shall be according to the next highest age category.
- (4) A staff person shall be counted in the staff-child ratio **only** if he/she meets child care worker qualifications and he/she is giving full attention to the direct supervision of the children.

- b. Staff Coverage shall be determined by the following:
- (1) **All children shall have staff supervision at all times.**
  - (2) Each staff person giving care to infants and toddlers shall be assigned the responsibility of caring for the same infants/toddlers daily, except in the absence of the regularly assigned child care worker.
  - (3) When a regular staff person is absent, there shall be a substitute present in order to maintain the required staff-child ratios. (See Section D., 1., a., page 23, for requirements.)
  - (4) The director shall be authorized to conduct center business and to make decisions regarding the operation of the center.
  - (5) If the director is absent, a staff person, meeting at least child care worker qualifications shall be designated as the responsible person in charge and shall be authorized to conduct center business and to make decisions regarding the operation of the center.
  - (6) The name of the director or staff person in charge shall be posted in a conspicuous place in the center.
  - (7) At least one (1) staff person meeting child care worker qualifications shall be present in each room where children are napping/resting. The staff person shall be able to see all the children in the room.

- (8) Staff-child ratio during **napping/resting** time shall be as follows:  
(Revised effective July 8, 2005)

Ages	Staff to Child Ratio
0 up to 18 months	1 to 5
18 months up to 2 ½ years	1 to 14
2 ½ years and older	1 to 36

- (9) At least one staff person who is at least 19 years of age, who meets child care worker qualifications and has a current Infant-Child (Pediatric) Cardiopulmonary Resuscitation Certificate (CPR) and a current First Aid Certificate shall be present during all hours of operation. On-line CPR and First Aid training are not acceptable. (Revised effective December 7, 2007)
- (10) There shall be a second staff person, age 19 or older available in the center building or on the premises, whenever seven (7) or more children are present. **Required staff-child ratios shall be met at all times. Children younger than age 2½ years shall be grouped separately from children older than 2½ years of age.**
- (11) No staff person shall be on duty with the children for more than eight (8) continuous hours, on a regular basis.
- (12) Staff persons shall be free from all other duties during the hours they are working directly with the children.

## 2. Infant/Toddler Daily Program

### a. Learning/growth activities

- (1) Infants/toddlers shall be encouraged to play with and handle a variety of toys.
- (2) Infants/toddlers shall spend time outdoors daily, when weather permits.
- (3) Infants/toddlers shall have daily indoor opportunities for freedom of movement, outside their cribs, in an open, uncluttered space.
- (4) In accordance with recommendations from the American Academy of Pediatrics, each infant younger than twelve (12) months shall be placed in a prone (front) position part of the time he/she is awake and observed. "Tummy time" helps muscle development and reduces the tendency of back positioning to flatten the back of the infant's head.
- (5) The staff shall talk to each infant/toddler often and encourage him/her to respond.
- (6) Cries of infants/toddlers or other signs of distress shall be investigated immediately.
- (7) Infants/toddlers shall be handled gently. Staff shall support each infant's head while lifting and holding the infant. Rough or harsh handling is prohibited, including but not limited to: shaking; lifting or jerking by one or both arms; pushing; pulling; forcing or restricting movement; lifting or moving by grasping clothing; covering an infant's/toddler's mouth, face, or head, etc. *(Added effective July 8, 2005)*

### b. Diapering/toileting

- (1) Sufficient clean, dry diapers and clothing shall be provided for each infant/toddler.
- (2) Wet or soiled diapers and other clothing shall be changed promptly.
- (3) Diapers and other soiled or wet clothing shall be changed in each child's crib or on a changing area that is cleaned and disinfected after each use.
- (4) No infant/toddler shall be left unattended while being diapered.
- (5) No infant/toddler shall be diapered on the floor.
- (6) Each child's hands shall be washed after diapering.
- (7) Each staff person shall wash his/her hands with soap and warm running water before and immediately after diapering **each child** and after contact with bodily fluids, **even if gloves are used**. Individual disposable paper towels shall be used for hand drying.
- (8) Each staff person shall use single-use disposable gloves for diapering **each child**. Clean gloves shall be used for each diaper change. Used gloves shall be disposed of in a covered, plastic-lined container, inaccessible to children, and shall be disposed of daily. Each staff person shall wash his/her hands with soap and warm running water after diapering **each child**. Individual disposable paper towels shall be used for hand drying.
- (9) Wet or soiled diapers shall be placed in a covered, plastic-lined, container, inaccessible to children, and shall be disposed of daily.

- (10) If the center uses a diaper service, soiled diapers shall be handled and disposed of according to the procedures of the diaper service.
- (11) Individual, disposable wipes shall be used at each diaper change. Soiled wipes shall be placed in a covered, plastic-lined container, kept out of the reach of children, and disposed of properly.
- (12) Potty chairs, if used, shall be **emptied** and **rinsed** and **disinfected after each use.**
- (13) Diapering areas shall be separate from food service and food preparation areas.

c. Napping/resting

- (1) Each infant shall be allowed to form his/her own pattern of sleeping and waking.
- (2) In accordance with recommendations from the American Academy of Pediatrics, unless the infant has a note from a physician specifying otherwise, each infant younger than twelve (12) months, shall be placed in a supine (on his/her back) position for sleeping to lower the risks of Sudden Infant Death Syndrome (SIDS).
- (3) In accordance with recommendations from the American Academy of Pediatrics, when an infant can easily turn over from the supine (back) to the prone (front) position, he/she shall be put down to sleep on his/her back, but allowed to adopt whatever position he/she prefers for sleep.
- (4) In accordance with recommendations from the American Academy of Pediatrics, unless a physician specifies the need for a positioning device that restricts movement within the child's bed, such devices shall not be used.
- (5) The staff shall recognize differing needs of a toddler for sleep/rest and each child shall be allowed to follow his/her own sleep/rest pattern.
- (6) At least one staff person shall be present in each room where children are napping/resting. The staff person shall be able to see all the children in the room.

d. Cribs, cots, and bedding

- (1) Placement of cribs shall allow a minimum of two (2) feet of space between occupied cribs.
- (2) Cots shall be positioned to allow space for staff access to the children and to allow space for safe exit in case of emergency.
- (3) Cribs and cots used by infants/toddlers shall be cleaned and disinfected and the sheets and coverings washed before being used by another child.
- (4) For infants, clean bottom sheets shall be provided daily, or more frequently as needed when wet or soiled. Crib sheets shall fit the mattress snugly.
- (5) In accordance with recommendations from the American Academy of Pediatrics, soft materials are prohibited in the infant's sleeping environment.
  - (i) Soft materials or objects, such as pillows, quilts, comforters, or sheepskins, shall not be placed under a sleeping infant.

- (ii) Soft objects, such as pillows, quilts, comforters, bumper pads, sheepskins, stuffed toys, and other gas-trapping objects shall be kept out of the infant's sleeping environment.
  - (iii) No infant shall be put to sleep on a sofa, soft mattress, or other soft surface.
  - (6) For toddlers, clean bottom sheets and top coverings shall be provided at least once each week or more frequently as needed when wet or soiled.
- e. Feeding
- (1) Food
    - (a) If formula and foods for infants are provided by the center, this shall be planned with the infant's parent(s)/guardian(s) or by the child's physician with the parent(s)/guardian(s) knowledge and consent.
    - (b) If the center provides formula for infants, commercially prepared, ready-to-feed formula shall be provided. All formula, bottles, nipples, and other equipment used in bottle preparation shall be prepared, handled, and stored in a sanitary and sterile manner.
    - (c) Meals and snacks provided by the center for infants/toddlers shall comply with infant and child meal and snack patterns shown in Section M., 2., page 73.
    - (d) If formula is provided by the parent(s)/guardian(s), it shall be labeled with the child's name and stored in the refrigerator. All bottles shall be sent home or the contents discarded at the end of the day.
    - (e) If food for infants/toddlers is provided by the parent(s)/guardian(s), all jars/containers shall be labeled with the child's name. No previously opened jars of baby/toddler food shall be accepted by the center. All opened jars/containers shall be sent home or discarded at the end of the day.
    - (f) As a toddler's eating patterns change from those of an infant to those of a preschool child, the regulations for preschool feeding shall apply.
    - (g) Small hard candies and nuts shall **not** be served to children younger than four years of age.
    - (h) Foods with a shape and consistency that may cause choking shall be prepared appropriately for the age and ability of the child. The following foods shall be served **only** under close supervision: peanut butter; popcorn; small pieces of raw vegetables; raisins; seeds; grapes (cut in half); foods with bones, meats (cut in pieces small enough to prevent choking); and hot dogs (cut length-wise, then chopped in small pieces, not cut in circular pieces).
  - (2) Service and serving equipment
    - (a) The feeding schedule shall be in accordance with each infant's/toddler's needs rather than according to the hour.
    - (b) Each infant shall be held for bottle feeding. No bottles shall be propped.

- (c) When an infant is able to sit in a chair or feeding table, he/she shall be allowed to do so.
  - (d) Each toddler shall be seated while eating.
  - (e) Each infant/toddler shall be encouraged to experiment with self-feeding with his/her hands or a spoon. Utensils shall be provided for each child who feeds himself/herself. Disposable utensils and disposable cups shall be used only under close supervision.
  - (f) Each infant's/toddler's solid foods shall be fed/eaten from a dish.
  - (g) Dishes and bottles used shall be unbreakable.
  - (h) Drinking water may be offered to each infant during the day. Drinking water shall be offered to each toddler during the day.
  - (i) No infant/toddler shall be forced to eat.
  - (j) Food shall not be used as a punishment or reward.
  - (k) Food service and food preparation areas shall be separate from diapering areas.
- (3) Face and hand washing
- (a) Each child's hands shall be washed with soap and running water before and after snacks and meals, and after toileting and diapering.
  - (b) Each staff person shall wash his/her hands with soap and running water before food preparation or service, after assisting with toileting, and after any contact with bodily fluids.
  - (c) Each staff person shall wash his/her hands with soap and warm running water before and after diapering each child, even if gloves are used.
  - (d) Each staff person shall use single-use disposable gloves for diapering **each child**. Clean gloves shall be used for each diaper change. Used gloves shall be disposed of in a covered, plastic-lined container, inaccessible to children, and shall be disposed of daily.
  - (e) Individual paper towels shall be supplied for each washing and drying.

### 3. **Preschool/School-age Children - Daily Program**

- a. Learning/growth activities
  - (1) There shall be a posted schedule of the day for each group of children.
  - (2) A variety of indoor and outdoor experiences shall be available.
  - (3) Pre-school and school-age children shall spend time outdoors daily when weather permits.
  - (4) The staff shall permit/encourage conversation among children, including during meal and snack time.
  - (5) The staff shall give individual attention to each child daily, such as conversation between staff and child.
  - (6) Radio and television and videotapes shall be used only when they supplement and enhance the daily plan for the children. No child shall be required to watch television or videotapes. All videotapes shall be

previewed by a staff person to ensure their appropriateness for the age of the children. Sexually explicit, violent, or frightening materials are prohibited.

- (7) Children shall be handled gently. Rough or harsh handling is prohibited, including but not limited to: shaking; lifting or jerking by one or both arms; pushing; pulling; forcing or restricting movement; lifting or moving by grasping clothing; covering a child's head or face; etc. *(Added effective July 8, 2005)*

b. Napping/resting

- (1) The staff shall recognize differing needs of children for sleep/rest.
- (2) A supervised rest period shall be scheduled for preschool children who are in attendance at the center for more than five (5) hours.
  - (a) The rest period shall not be less than 45 minutes and shall not exceed 2½ hours.
  - (b) Any child who does not sleep after 45 minutes of rest shall be permitted to engage in quiet activities.
  - (c) School age children shall not be required to nap.
- (3) Cots and bedding
  - (a) Cots shall be cleaned and clean bottom and top sheets/covers provided before the cot is used by another child.
  - (b) Clean sheets/covers shall be provided at least once each week or more frequently as needed when wet or soiled.
  - (c) Cots shall be positioned to allow space for staff access to the children and to allow space for safe exit in case of emergency.
- (4) At least one (1) staff person shall be present in each room where children are napping/resting. The staff person shall be able to see all the children in the room.

c. Toileting

Children's toileting shall be according to each child's needs. Each child's hands shall be washed with soap and running water after toileting.

d. Feeding

- (1) Food
  - (a) Children in attendance shall be served breakfast or a morning snack, a nutritious midday meal, and at least one afternoon snack.
  - (b) Meal and snack components and serving sizes shall comply with meal and snack patterns shown in Section M., 1., page 72.
  - (c) Breakfast, if served, shall include at least the following:
    - fruit or vegetable or full strength juice;
    - bread or bread product;
    - and milk.
  - (d) Snacks shall include at least two of the following four choices:
    - milk or milk products;
    - meat or meat alternate;
    - fruit, vegetable or full strength juice;

- bread, cereal, crackers or other bread products.
- (e) Meals shall include at least the following:
    - meat or meat alternate;
    - vegetables/fruits (*2 vegetables or 1 vegetable and 1 fruit or 2 fruits*);
    - bread or bread product;
    - and milk.
  - (f) Fluid (liquid) milk shall be served. No powdered milk shall be served for drinking.
  - (g) No child shall be deprived of a meal or snack if he/she is in attendance at the time the meal or snack is served.
  - (h) Meals and snacks for children with special dietary needs shall be provided in accordance with the child's needs and written instructions of the child's parent(s)/guardian(s) or a licensed physician.
  - (i) Menus for meals and snacks shall be planned in advance, dated and posted where they may be seen by the parent(s)/guardian(s). Menus shall include a variety of foods. Food substitutions shall be noted on the menu.
  - (j) Meals and snacks shall be provided by the center. When a parent(s)/guardian(s) chooses to provide food for their child, a written signed statement indicating this shall be on file in the center.
  - (k) Vending machines shall be prohibited in areas used by the children.
  - (l) Small hard candies and nuts shall **not** be served to children younger than four years of age.
  - (m) Foods with a shape and consistency that may cause choking shall be prepared appropriately for the age and ability of **each child**. The following foods shall be served **only** under close supervision: peanut butter; popcorn; small pieces of raw vegetables; raisins; seeds; grapes (cut in half); foods with bones, meats (cut in pieces small enough to prevent choking); and hot dogs (cut length-wise, then chopped in small pieces, not cut in circular pieces).
- (2) Service and serving equipment
- (a) Portions of food served shall be suited to the child's age and appetite. Second portions shall be available.
  - (b) Unbreakable or single-use disposable dinnerware shall be used.
  - (c) Single-use cups or glasses or drinking fountains shall be supplied for water service during the day. A common drinking container shall not be used.
  - (d) Drinking water shall be offered to each child during the day.
  - (e) Food shall be served on individual dishes or napkins and shall not be placed directly on tables.
  - (f) Children shall be seated while eating.
  - (g) No child shall be forced to eat.
  - (h) Children shall not be allowed in the kitchen.
- (3) Face and hand washing
- (a) Each child's hands shall be washed with soap and running water before and after meals and snacks, and after toileting and diapering.

- (b) Each staff person shall wash his/her hands with soap and running water before food preparation or service, after assisting with toileting, and after any contact with bodily fluids.
  - (c) Each staff person shall wash his/her hands with soap and warm running water before and after diapering **each child**, even if gloves are used.
  - (d) Each staff person shall use single-use disposable gloves for diapering **each child**. Clean gloves shall be used for each diaper change. Used gloves shall be disposed of in a covered, plastic-lined container, inaccessible to children, and shall be disposed of daily.
  - (e) Individual paper towels shall be supplied for each washing and drying.
- (4) When food service is catered, the plan shall be approved in writing by the county health department, if such approval is available. Meals and snacks that are catered shall meet the meal and snack patterns provided in Section M., page 72.

#### 4. Disciplinary Practices

- a. Discipline shall be appropriate to the age and developmental level of each child.
- b. Disciplinary practices, including but not limited to the following, are *prohibited*:
  - (1) The use of corporal or physical punishment is prohibited, including but not limited to: spanking; shaking; slapping; kicking; pushing; biting; pinching; hitting; thumping; hair pulling; ear pulling;
  - (2) The use of verbal abuse is prohibited, including but not limited to: yelling; shouting; name calling; shaming; making derogatory remarks about a child or a child's family; using language that threatens, humiliates, or frightens a child;
  - (3) The use of discipline associated with food, naps, or bathroom procedures is prohibited, including but not limited to: withholding food as punishment; use of food such as hot sauce, lemon juice, vinegar, etc., or soap, as punishment; punishment for lapses in toilet training; punishment for not sleeping during nap/rest time;
  - (4) The use of physical restraint as punishment is prohibited;
  - (5) Punishment administered by another child is prohibited.
  - (6) Rough or harsh handling of children, whether associated with discipline or not, is prohibited, including but not limited to: shaking; lifting or jerking by one or both arms; pushing; pulling; forcing or restricting movement; lifting or moving by grasping clothing; covering a child's head; etc. (*Added effective July 8, 2005*)

## **5. Staff-Parent Communication**

- a. The staff and parent(s)/guardian(s) shall discuss discipline or behavior problems to determine appropriate action consistent with disciplinary practices above.
- b. The center shall be open to visits from parent(s)/guardian(s) at any time during the center's operating hours.
- c. Parent(s)/guardian(s) shall be informed of their right to visit and observe their child during hours of care.
- d. Staff shall be available for communication and conferences with the parent(s)/guardian(s) at a mutually convenient time.
- e. The center shall notify parent(s)/guardian(s) of procedures for making a complaint, including name(s) of person(s) to contact.

## **6. Health Information**

- a. **Illness and injury**
  - (1) No child who is ill shall be admitted to the center. This regulation is not intended to require the exclusion of children in violation of the Americans with Disabilities Act (ADA). The Department of Human Resources is not the enforcement agency for the ADA. Determinations of illness **may** be based on: the child's inability to participate in the center's activities; the need for additional care that center staff cannot provide without taking time and attention away from the other children; signs of serious or contagious disease or condition, such as but not limited to fever, diarrhea, vomiting, unexplained rash, scabies, head lice; a physician's diagnosis requiring that the child be separated from other children.
  - (2) **Isolation and removal**
    - (a) Any child in attendance who becomes ill, has a contagious disease or condition, or suffers an injury that requires professional medical attention shall be separated promptly from the group, but shall have continuous supervision by a staff person. Toys, bedding, equipment, and bathroom facilities used by an ill child or adult shall be cleaned and disinfected prior to use by another person.
    - (b) The ill or injured child's parent(s)/guardian(s) shall be notified immediately and required to come for, or arrange for another designated person to come for the child.
    - (c) If the parent(s)/guardian(s) or person designated by the parent(s)/guardian(s) can not be reached or if the injury or illness is severe, the center shall obtain emergency medical treatment.

- (3) Contagious diseases/conditions
  - (a) When a contagious disease/condition (a disease/condition which can be transmitted or spread from person to person) has been introduced into the center, parent(s)/guardian(s) of each exposed child shall be notified.
  - (b) The center shall urge parent(s)/guardian(s) to notify the center when their child is known to have been exposed to a contagious disease/condition outside the center.
  - (c) The center shall report any known or suspected case of contagious disease/condition to the county or state health department. (See Appendix R, Title 22-11A-2, page 124, and Appendix Q, page 104, Alabama Notifiable Diseases/Conditions, for requirements.)
- (4) Infant-child Cardiopulmonary Resuscitation (CPR) and First Aid.  
 At least one staff person with a current Infant-Child (Pediatric) Cardiopulmonary Resuscitation Certificate (CPR) and a current First Aid Certificate shall be in the center during hours of operation. A copy of the Certificates shall be on file in the center. On-line CPR and First Aid training are not acceptable. (*Revised effective December 7, 2007*)
- (5) Authority and procedure for administering medication or medical procedures shall be clearly defined.
  - (a) No medication or medical procedures (prescription or over-the-counter) shall be administered without a written, signed authorization, on the required form, from the child's parent(s)/guardian(s). **Blanket authorization forms are prohibited.** The authorization form shall include time(s) and date(s) to be administered, dosage, storage instructions, and specific directions for administering the medication/medical procedure, such as give by mouth, apply to skin, inhale, drops in eyes, etc. An authorization form shall be valid for no more than seven (7) days unless accompanied by a written physician's statement. (See Appendix I, page 93, for required form.)
  - (b) Any prescription drug or over the counter drug sent to the center shall be in its original container. Prescription drugs shall have a pharmacy label or shall be accompanied by a physician's written instructions. Over the counter drugs shall be clearly labeled with the child's name and directions for administering the drug. A measuring device (if the medication requires measuring) shall be provided for each child's medication.
  - (c) Medication or medical procedures shall be administered to the child by the designated staff.
  - (d) Locked storage (lock and key or combination lock), inaccessible to children, shall be provided for all medication or drugs (children's or staff's).
  - (e) Medicines/drugs shall be returned to the parent(s)/guardian(s) or disposed of properly when no longer needed.

- (f) Time and date of all medication dosages or medical procedures administered at center shall be documented, in writing, signed by the staff person administering the medication or medical procedure (initials not acceptable), and kept in the child's file. (See Section H., 4., page 56, for children's records requirements.) Copies shall be made available to the child's parent(s)/guardian(s) on request.
- b. Hygienic practices
  - (1) Face and hand washing
    - (a) Each child's hands shall be washed with soap and running water before and after snacks and meals, and after toileting and diapering.
    - (b) Each staff person shall wash his/her hands with soap and running water before food preparation or service, after assisting with toileting, and after any contact with bodily fluids.
    - (c) Each staff person shall wash his/her hands with soap and warm running water before and after diapering.
    - (d) Each staff person shall use single-use disposable gloves for diapering. Clean gloves shall be used for each diaper change. Used gloves shall be disposed of in a covered, plastic-lined container, inaccessible to children, and shall be disposed of daily.
    - (e) Individual paper towels shall be supplied for each washing and drying.
  - (2) Toilet articles
    - (a) Each child's toilet articles, (such as combs, toothbrushes, etc.) shall be labeled with the child's name, stored separately, and maintained in a sanitary condition.
    - (b) Paper towels, disposable wipes, and facial tissues shall be disposed of immediately following each use.
    - (c) Toilet paper shall be provided for use by children and staff.
  - (3) Extra children's clothing shall be available in the center.
- c. Animals on the premises
  - (1) Animals or breeds of animals that have shown aggressive behavior shall not be kept in the center or on the grounds.
  - (2) Animals that are not aggressive but could pose a threat to the health and safety of the children shall be kept in an area away from the children.
  - (3) A current certificate of rabies vaccination shall be on file in the center for any animal required by law to be vaccinated
  - (4) Animals shall be confined. Cages and other areas used to confine animals shall be kept clean, with appropriate food and water available.
  - (5) Each child and each staff person shall wash his/her hands with soap and running water immediately after handling animals.

## 7. Emergency Procedures

A plan for the evacuation and care of the children in case of fire, tornado, serious accident or injury, or power failure shall be established and posted in a conspicuous place in the center.

## **E. Transportation**

***NOTE: THE DEPARTMENT OF HUMAN RESOURCES DOES NOT INSPECT AWAY-FROM-CENTER ACTIVITIES, INCLUDING SWIMMING, TRANSPORTATION, OR ANY OTHER ACTIVITIES. THE LICENSEE SHALL ASSUME FULL AUTHORITY AND RESPONSIBILITY FOR ACTIVITIES AWAY FROM THE CENTER.***

### **1. Transportation Provided by the Center**

- a. *IF THE CENTER PROVIDES TRANSPORTATION OR ANY ACTIVITIES AWAY FROM THE CENTER, A WRITTEN STATEMENT, SIGNED BY EACH CHILD'S PARENT(S)/GUARDIAN(S), SHALL BE ON FILE IN THE CENTER PRIOR TO THE CHILD'S PARTICIPATION IN SUCH ACTIVITIES. THE STATEMENT SHALL INDICATE THAT THE PARENT(S)/GUARDIAN(S) HAS/HAVE BEEN INFORMED THAT THE DEPARTMENT OF HUMAN RESOURCES DOES NOT INSPECT ACTIVITIES PROVIDED AWAY FROM THE CENTER AND THAT THE LICENSEE ASSUMES FULL RESPONSIBILITY FOR SUCH ACTIVITIES.*** (See required child's preadmission record, Appendix H, page 91.)
- b.** The center shall be responsible for each child who is using transportation contracted for, arranged by, or provided by the center. For purposes of these regulations, transportation includes the use of vehicles as well as walking to and from away-from-the-center activities.
- c. Transportation checklists**
  - (1)** Checklists, on the required form, shall be used to account for the loading and unloading of each child from the vehicle at every location. Checklists shall also be used to account for each child during activities that include walking to and from the center. (See Appendix O, page 100, for required forms.)
  - (2)** The center shall designate the staff person responsible for completing the checklist. The designated staff person shall sign (initials are not acceptable) the checklist when it has been completed.
  - (3)** The driver of the vehicle shall sign (initials are not acceptable) the completed checklist at each location, indicating he or she has checked each seat in the vehicle at each location to verify that no child is left on the vehicle. (*Revised effective December 8, 2006*)
  - (4)** Completed checklists shall be kept on file in the center for the current year plus at least two (2) additional years. (See Section H., 5., page 57, for requirements regarding records to be kept in the center.)
- d.** When the center provides transportation to and from the home or another designated location, the center shall be responsible for picking the child up at the designated location and delivering the child to the care of the designated person.

- e. Supervision of children in center vehicles.
- (1) In addition to the driver, staff shall be provided to meet required staff-child ratios for children younger than lawful school age. (See definition, page 9) (See Section D., 1., a., on page 23, for required ratios.) **NOTE:** The driver of the vehicle shall *not* be counted in the required staff-child ratio when children younger than lawful school age are transported.
  - (2) For children of lawful school age and older, fewer than fifteen (15) children may be transported with only the driver of the vehicle, provided the driver meets child care worker qualifications.
  - (3) If fifteen (15) or more children of lawful school age are transported, at least one (1) staff person in addition to the driver shall be required.
  - (4) If thirty (30) or more children of lawful school age are transported, at least two (2) staff persons in addition to the driver shall be required.
  - (5) No child shall be left in a vehicle without adult supervision at any time.
  - (6) A staff person shall accompany each child younger than 2½ years of age from the vehicle to the care of the designated person.
  - (7) A staff person shall visually supervise each child 2½ years of age and older from the vehicle to the care of a designated person.
  - (8) The driver shall check each seat of the vehicle at each location to verify that no child is left on the vehicle. *(Revised effective December 8, 2006)*
- f. Safety precautions **in all vehicles** used and operated by the center in transporting children.
- (1) Stationary seating space for each child shall be provided, and no child shall sit on the floor. Children shall remain seated while the vehicle is in motion.
  - (2) Doors shall be locked at all times when the vehicle is moving.
  - (3) Children shall not be transported in the front seat of any vehicle with a passenger side air bag.
  - (4) The driver of the vehicle and all passengers shall be secured in a passenger restraint system at all times when the vehicle is moving.
  - (5) Each child shall be properly secured using an aftermarket or integrated child passenger restraint system meeting applicable state and federal motor vehicle safety standards. Each child passenger restraint system shall be appropriate for the age and size of the child. *(Revised effective December 8, 2006)*
    - (a) Each child younger than one (1) year of age or weighing less than twenty (20) pounds shall be secured in an infant only or a convertible seat used in a rear facing position which is properly anchored to the vehicle, installed and used according to the manufacturer's instructions and maintained in good condition. *(Revised effective December 8, 2006)*
    - (b) Each child younger than five (5) years of age or weighing less than 40 pounds shall be properly secured in a convertible seat in the forward facing position or in a forward facing seat which is properly anchored to the vehicle, installed and used according to the manufacturer's instructions and maintained in good condition. *(Revised effective December 8, 2006)*

- (c) Each child younger than six (6) years of age shall be properly secured in a booster seat which is properly anchored to the vehicle, installed and used according to the manufacturer's instructions and maintained in good condition. *(Revised effective December 8, 2006)*
  - (d) Each child six (6) years of age and older, the driver, and each adult passenger shall be secured in an ***individual*** seat belt, which is properly anchored to the vehicle. *(Revised effective December 8, 2006)*
- g. Vehicle safety check
  - (1) A safety check, on the required form, (See Appendix P, page 103, for required form.) shall be done annually and signed and dated by a mechanic, on all vehicles regularly used by the center to transport children.
  - (2) A copy of the safety check, on the required form, shall be on file in the center. The safety check shall show that the following items are operating in a safe condition: brakes; tires; lights (head, signal, brake, tail); windshield wipers; steering; and exhaust system; ventilation and heating system; and passenger restraint systems. (See Appendix P, page 103, for required form.)

## **2. Transportation Provided by Parent(s)/Guardian(s) or Other Designated Person(s)**

- a. Each child being transported by parent(s)/guardian(s) or other designated person(s) shall be accompanied into and out of the center by the parent, guardian, or other person.
- b. The center shall require the parent(s)/guardian(s) or other person(s) designated by the parent(s)/guardian(s) to sign (signature required, initials not acceptable) each child in at each arrival to the center, indicating the time of arrival. (See Appendix K, page 95, for sample form.)
- c. The center shall require the parent(s)/guardian(s) or other person(s) designated by the parent(s)/guardian(s) to sign (signature required, initials not acceptable) each child out at each departure from the center, indicating the time of departure. (See Appendix K, page 95, for sample form.)
- d. If any child walks to the center from school or another designated location, or is transported to/from the center by school bus, center staff shall sign (signature required, initials not acceptable) each child in upon arrival, indicating time of arrival.
- e. The center shall require written authorization from a child's parent(s)/guardian(s) to release a child to any person other than the parent(s)/guardian(s) or persons designated on the child's preadmission form. (See required child's preadmission record, Appendix H, page 91.)
- f. The center shall require unfamiliar authorized persons to show photographic identification when releasing a child.

## F. Staff

All staff hired after the effective date of these regulations shall meet experience, education, training, and age qualifications. Verification of qualifications shall be on file in the center.

### 1. Qualifications of Staff

a. The center director shall have responsibility for the day to day operation and management of the center including supervision of the planning and implementing of the children's daily activities, supervision of staff, and responsibility for maintenance of the center. The center director shall be at least 19 years of age and shall have at least twenty (20) clock hours of training in administration and management and at least four (4) clock hours of training in quality child care. In addition, the center director shall meet **at least one** of the following training categories:

(1) One hundred twenty (120) clock hours of training in child care; a high school diploma or general education diploma (G.E.D.); and at least twelve (12) months of working experience as a child care worker/teacher or as a director/program director in a licensed day care center or a Department approved setting. Training in child care shall include at least twenty (20) clock hours in each of these areas:

- (a) child development;
- (b) health, safety and universal precautions;
- (c) quality child care and licensing;
- (d) the child care professional and the family;
- (e) language development;
- (f) positive discipline and guidance.

**OR**

(2) A child development associate credential (CDA) or a certified child care professional certificate (CCP) from the National Child Care Association Inc. (NCCA) and a high school diploma or general education diploma (G.E.D.); and at least twelve (12) months of working experience as a child care worker/teacher or as a director/program director in a licensed day care center or a Department approved setting.

**OR**

(3) An associate degree in child development or early childhood education from a post-secondary school (technical, vocational, junior college), and at least nine (9) months of working experience as a child care worker/teacher or as a director/program director in a licensed day care center or a Department approved setting.

**OR**

(4) A bachelor's degree in child development or early childhood education and at least six (6) months of working experience as a child care worker/teacher

or as a director/program director in a licensed day care center or a Department approved setting.

- b. Child care workers/teachers who have primary responsibility for the care of a group of children shall be at least 19 years of age and shall have a high school diploma or general education diploma (G.E.D.). Within thirty (30) days after employment, child care workers/ teachers shall have at least twelve (12) clock hours of training in child care and development through participation in workshops, meetings, videotapes, or one-to-one consultation, unless written documentation of prior equivalent training is on file. Training in child care shall include at least one (1) hour in each of these areas:
  - (1) child development;
  - (2) health, safety and universal precautions;
  - (3) quality child care and licensing;
  - (4) the child care professional and the family;
  - (5) language development;
  - (6) positive discipline and guidance.
- c. Aides/assistant teachers who assist with groups of children shall be at least 16 years of age and shall:
  - (1) have at least an 8th grade education;
  - (2) work under the direct supervision of a person qualified as a child care worker/teacher;
  - (3) and shall not be counted in the required staff-child ratio.
- d. Service staff, such as cooks, janitors, or bus drivers, shall not be counted in the required staff-child ratio unless they meet child care worker qualifications, are acting as a child care worker, and are giving full attention to the children. (See Section D., 1., a., and b., page 23, for requirements regarding staff coverage.)
- e. The driver of a center vehicle transporting children shall be at least 19 years of age and have a valid driver's license.
- f. A substitute staff person shall meet all qualifications of staff for whom he/she is substituting.

## **2. Records on Staff**

- a. Records on all staff, including substitutes and volunteers, shall be kept confidential, and shall be on file in the center at the time of employment. Records shall be maintained in the center for at least two years after the staff person has left the center. Records shall be filed in alphabetical order. Records shall contain originals or clear copies of required information. Inactive files shall be maintained separately from active files. Records shall include but need not be limited to:
  - (1) An application for employment.

- (2) Information regarding character and suitability shall be obtained on all staff, including substitutes and volunteers, by the licensee/center director, and shall include but need not be limited to:
  - (a) Reference contacts: written statements on the required form from three unrelated references, including at least one previous employer, if ever employed. (See Appendix F, page 88, for a copy of the required reference form.)
  - (b) Request for Clearance of State Central Registry on Child Abuse/Neglect, on the required form, indicating whether a perpetrator record was found. Original forms shall be obtained from the Department and submitted for clearance.
  - (c) Results of a criminal history background information check including:
    - (i) A copy of the Mandatory Criminal History Check Notice.
    - (ii) A copy of the Criminal History Information Consent and Release Form.
    - (iii) A Suitability Determination letter from the Department.
    - (iv) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card.
  - (d) Additional information regarding character and suitability is found in Section G., on page 44.
- (3) Written verification of education.
- (4) Written verification of training.
- (5) Required medical examination report, including TB test or chest x-ray date and results. (See Section F., 3., Health, on page 42, for details. See Appendix D, page 84, for required form.)
- (6) In addition to (1) through (5) above, the following specialized records shall be maintained if applicable to the staff person's specific responsibilities:
  - (a) Valid driver's license if the staff person transports children.
  - (b) Valid commercial driver's license (CDL), if required for vehicles used to transport children. (*Required for vehicles designed to carry 16 or more persons, including the driver.*)
  - (c) Written documentation of a current American Red Cross Lifeguard Training Certificate, a current First Aid Certificate, and a current Infant-Child (Pediatric) Cardiopulmonary Resuscitation Certificate (CPR), if there is a pool at the center. A copy of each certificate shall be on file in the center. On-line CPR and First Aid training are not acceptable. (*Revised effective December 7, 2007*) (See Section C., 6., page 19, for additional information).
  - (d) Written documentation of a current First Aid Certificate and a current Infant-Child (Pediatric) Cardiopulmonary Resuscitation Certificate (CPR) shall be on file for at least one (1) staff person present at the center during hours of operation. On-line CPR and

First Aid training are not acceptable. *(Revised effective December 7, 2007)*  
(See Section D., 1., b., (9), page 24.)

- b. Additional records to be maintained during employment.
- (1) Documentation of in-service training. (See Section F., 4., page 43, for requirements.)
  - (2) Updated/additional medical information. (See Section F., 3., b., page 42, Health - Staff, for requirements.)
  - (3) A written report of any misconduct or dereliction of duty, including the investigation procedure followed and disposition made.
  - (4) Written documentation of updated Infant-Child (Pediatric) Cardiopulmonary Resuscitation Certificate (CPR) and updated First Aid Certificate. On-line CPR and First Aid training are not acceptable. *(Revised effective December 7, 2007)*
  - (5) Updated valid driver's license if the staff person transports children.
  - (6) Updated valid commercial driver's license (CDL), if required for vehicles used to transport children. *(Required for vehicles designed to carry 16 or more persons, including the driver.)*
  - (7) Within one month of employment, written and signed verification stating that each staff person has read the Minimum Standards.
- c. Records on applicant/licensee/director
- (1) The following information on the applicant/director shall be submitted to the Department at the time of application for a license or employment as a director. Updated information on the licensee/director may be requested at the discretion of the Department. A copy shall be kept on file at the center.
    - (a) Licensing Application Attachment. (See Appendix B, page 80, for a copy of the required form.)
    - (b) Verification of education.
    - (c) Verification of initial training.
    - (d) Initial medical examination report, on the required form, signed by a licensed practicing medical doctor, physician's assistant (as defined in Section 34-4-290 (4), Code of Alabama, 1975), or a certified nurse practitioner. (See DHR-CDC-737, Medical Report for Persons Giving Care to Children, in Appendix D, page 84, for required form.)
    - (e) Alabama Department of Human Resources Request for Clearance of State Central Registry on Child/Abuse Neglect.
    - (f) Authorization to obtain criminal history background information check, including the following:
      - (i) A copy of the Mandatory Criminal History Check Notice.
      - (ii) A copy of the Criminal History Information Consent and Release Form.
      - (iii) A Suitability Determination letter from the Department.
      - (iv) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a

driver's license, non-driver's identification, or program participation card.

### **3. Health - Staff**

- a. Initially, each staff person shall provide a statement, on the required form, from a licensed practicing medical doctor, physician's assistant (as defined in Section 34-4-290 (4), Code of Alabama, 1975), or a certified nurse practitioner. The initial statement shall be dated within six (6) months prior to employment and shall document the date and results of a tuberculin skin test or chest x-ray (also dated within six (6) months). The statement shall attest to the physical suitability of the staff person to care for children or to perform services in a center, and the person's freedom from infectious or contagious diseases. The statement shall be signed by the licensed practicing medical doctor, physician's assistant, or certified nurse practitioner, and shall be on file in the center at the time of employment. (See DHR-DFC-737, Medical Report for Persons Giving Care to Children, in Appendix D, page 84, for required form.)
- b. At least every four (4) years after the date of the initial statement, each staff person shall obtain a statement, on the required form, from a licensed practicing medical doctor, physician's assistant, or certified nurse practitioner, which attests to the staff person's freedom from infectious or contagious diseases and physical fitness to care for children or perform services in a center. The statement shall be on file in the center. (See Appendix D, page 84, for required form.)
- c. Staff persons with symptoms of a contagious disease/condition shall not be present in the center.
- d. A staff person who, upon observation or examination or as a result of tests, shows indication of a physical, emotional, or mental condition which could be detrimental to the children or staff, or which would prevent satisfactory performance of duties, shall not continue work at the center until the staff person provides a written statement from a licensed practicing medical doctor indicating that the staff person is able to return to work.
- e. An additional medical or psychological evaluation or drug screening shall be required at the discretion of the Department's representative, based on information that raises reasonable suspicion. A release to allow the Department representative to confer directly with the doctor or the professional performing the evaluation shall be provided on request. "Reasonable suspicion" is defined as follows: Belief based upon evidence of past or present behavior that reasonable grounds exist to review the employee, staff, or licensee, including board members, suitability and fitness to provide care for children. *(Revised effective July 8, 2005)*

#### **4. In-Service Training for Staff**

- a. All staff shall be involved in ongoing training related to his/her specific responsibilities. Training in child care shall include each of these areas:
  - (1) child development;
  - (2) health, safety and universal precautions;
  - (3) quality child care and licensing;
  - (4) the child care professional and the family;
  - (5) language development;
  - (6) positive discipline and guidance.
- b. Directors shall obtain at least twenty-four (24) clock hours of training each year.
- c. Child care workers/teachers shall obtain at least twelve (12) clock hours of training each year.
- d. Service staff (such as cooks, bus drivers, janitors) shall obtain at least four (4) clock hours of training each year.
- e. Documentation of training shall be on file in the center. Training in Infant-Child (Pediatric) Cardiopulmonary Resuscitation (CPR) and First Aid shall not be counted toward annual inservice training hours. *(Revised effective December 7, 2007)*
- f. For purposes of inservice training requirements, a year may be considered based on the center's licensing date, for example June 15, 2001 through June 15, 2002 is one year.

## **G. Character and Suitability**

### **1. Character and suitability review**

All applicants and holders of a license, holders of a six-month permit, or approval to operate a child care center, all applicants for employment or volunteer services, and all current staff persons, employees, and volunteers shall be of suitable character in order to operate or work in a child care center. All applicants, operators, owners, licensees, center directors, staff persons, employees, and volunteers shall be investigated to determine their character and suitability to hold a license, permit, or approval to operate a child care center, or to work, or perform volunteer services in a child care center. *(Revised effective July 8, 2005)*

- a. For purposes of these regulations, an applicant for a license or approval to operate a child care center, or the holder of an existing license, permit, or approval to operate a child care center includes the individual applicant or holder of a license, permit, or approval to operate as well as all board members and officers of corporations, partnerships, associations, or other legal entities who have direct contact with the children in care or unsupervised access to children.
- b. Information regarding the character and suitability of applicants for a license or approval to operate a child care center shall be reviewed by the Department at the time of the initial application for a license or approval to operate. Subsequent character and suitability reviews may be conducted at any time at the discretion of the Department.
- c. Evidence that an applicant or holder of a license, six-month permit, or approval to operate lacks the required good character or is otherwise not a suitable person to operate a child care center may be the basis for the denial of an initial application, denial of an application for renewal, denial of renewal of approval to operate, suspension or revocation of a license, six month permit, or approval to operate.
- d. The holder of a license, permit, or approval to operate or their authorized designee, such as, but not limited to, the center director, shall review information regarding the character and suitability of all applicants being considered for employment or volunteer work and all current staff persons, employees and volunteers, and make a determination whether they are of suitable character to be employed or perform volunteer services in a child care center.
- e. The holder of a license, permit, or approval to operate, or their authorized designee, such as, but not limited to the center director, shall conduct a review as set out below, of all current staff persons, employees and volunteers, as instructed by the Department. *(Revised effective July 8, 2005)*

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

**2. Factors to be considered**

**FACTORS TO BE CONSIDERED IN DETERMINING CHARACTER AND SUITABILITY SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:**

**a. References**

- (1) Applicants/Center Directors
  - (a) Applicants for a license or approval to operate shall furnish the names of at least three (3) individuals who are not related to the applicant by blood, marriage, or adoption who can attest to the good character and suitability of the applicant. The names, addresses, and telephone numbers of the three references shall be furnished to the Department at the time the initial application is submitted. The Department reserves the right to contact additional sources who can attest to the applicant's character and suitability, community reputation, work history, and suitability to care for children.
  - (b) Center Directors shall furnish the names of at least three (3) individuals who are not related to the director by blood, marriage, or adoption, who can attest to the good character and suitability of the individual. The names, addresses, and telephone numbers of the three references shall be furnished to the Department at the time the initial application is submitted or at the time of employment. The Department reserves the right to contact additional sources who can attest to the Director's character, community reputation, work history, and suitability to care for children. *(Revised effective July 8, 2005)*
  - (c) All information obtained on applicants and center directors shall be maintained by the Department.
- (2) Staff
  - (a) For each staff person, employee, and volunteer, as well as any person who has contact with the children in care or unsupervised access to children, at least three written reference letters (see Appendix F, page 88, for required form) from individuals not related to the person by blood, marriage, or adoption, shall be obtained by holders of a license, permit, or approval to operate a child care center, or their designee, attesting to the person's character, community reputation, work history, and suitability to care for children.
  - (b) The holder of the license, permit, or approval, or their designee shall maintain all information obtained on staff persons, employees, and volunteers in the person's file in the center.

**b. Clearance of State Central Registry on Child Abuse/Neglect**

(1) Applicants

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

(2) Center Directors

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

(3) Staff

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

**c. Criminal History Background Information Checks.**

- (1) In accordance with Alabama Law, (Code of Alabama 1975, § 38-13-1 through 12, Act 2000-775, effective November 1, 2000, see page 125, for a copy of the law), the criminal history of individuals shall be reviewed and shall be a factor in determining the character and suitability of individuals to hold a license, six month permit, or approval, or to work in a child care center. All applicants for a license or approval and staff persons, employees, volunteers, and applicants for employment or volunteer work, shall reveal on their application, all past criminal convictions and current charges. The holder of a license, permit, or approval, the center director or administrator of the center shall inform the Department of all criminal convictions and current criminal charges on themselves and staff persons, employees, and volunteers that occur after a license, permit, or approval to operate has been obtained. Staff persons, employees and volunteers shall inform the holder of a license, permit, or approval, their authorized designee, or the center

director of all criminal convictions and current charges which occur during the course of their employment or volunteer service.

- (2) Mandatory Criminal History Check Notice: (see Appendix C., page 83, for a copy of the form) Alabama law requires that a criminal history background information check be conducted on all persons who hold a license or work in a Department of Human Resources licensed child care or adult care facility, a foster or adoptive home approved by the Department of Human Resources, or a licensed child placing agency, including all officers and agents of the entity. You are required to provide full, complete, and accurate information on your criminal conviction history upon application for a license or employment. This information shall be used to determine your suitability to provide care to children, the elderly, or disabled individuals. Unless a criminal history background information check report and suitability determination have previously been obtained, you must complete a written request (mandatory criminal history release form) and consent for a criminal history background information check with fingerprints at the time of application for employment. Refusal to complete these documents or providing false information shall result in refusal of employment, approval, or licensure. The term conviction includes a determination of guilt by a trial, by a plea of guilty, or a plea of nolo contendere. You are required to notify your employer, licensing agency, or entity where you are performing volunteer work of any criminal conviction occurring subsequent to the date of completion of the mandatory criminal history notice. Any individual determined to have submitted false information shall be referred to the district attorney or law enforcement for investigation and possible prosecution. An individual who intentionally falsifies or provides any misleading information on the statement is guilty of a Class A misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000) and imprisonment for not more than one year. Convictions for crimes listed Section G., 2., d., (see page 51) shall make an individual unsuitable for employment, volunteer work, approval, or licensure.
- (3) The Mandatory Criminal History Check Notice shall include the following Criminal History Statement:
  - (a) Have you ever had a suitability determination made by the Department of Human Resources in connection with a previous criminal history information background check? Yes (\_\_\_) No (\_\_\_).
  - (b) Have you ever been convicted of a crime? Yes (\_\_\_) No (\_\_\_). If yes, state the date, crime, location, punishment imposed, and whether the victim was a child or an elderly or disabled individual.
- (4) At the time of initial application, each applicant for a license shall submit a request for a criminal history background information check to the Alabama Bureau of Investigation, Department of Public Safety accompanied by the following:
  - (a) A signed statement, including the Mandatory Criminal History Check Notice, indicating whether he or she has ever been convicted

- of a crime, and if so, fully disclosing all convictions. A copy of the Mandatory Notice shall be submitted to the Department of Human Resources, Criminal History Checks Unit. A copy shall be kept on file in the center.
- (b) Fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.
  - (c) Written consent from the applicant for a license for the release of the criminal history background information to the Department of Human Resources. A copy shall be submitted to the Department of Human Resources, Criminal History Checks Unit. A copy shall be kept on file in the center.
  - (d) The required fee.
  - (e) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card. A copy of the identification verification shall be kept on file in the center.
- (5) Prior to or on the first day of employment, each center director shall sign a signed statement, including the Mandatory Criminal History Check Notice, indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. A copy of the Mandatory Notice shall be submitted to the Department of Human Resources, Criminal History Checks Unit. A copy shall be kept on file in the center.
- (a) A center director who fails or refuses to sign the required Mandatory Criminal History Check Notice and complete the questions shall not be employed or allowed to perform volunteer services.
  - (b) Upon receipt of a signed Mandatory Criminal History Check Notice, revealing no disqualifying convictions, a center director may be employed or perform volunteer services provisionally at the discretion of the licensee, pending receipt of a suitability determination from the Department.
  - (c) Within five business days of being employed or beginning volunteer service the following shall be submitted to the Alabama Bureau of Investigation, Department of Public Safety:
    - ((1)) Fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.
    - ((2)) Written consent for the release of the criminal history background information to the Department of Human Resources. A copy shall be submitted to the Department of Human Resources, Criminal History Checks Unit. A copy shall be kept on file in the center.
    - ((3)) The required fee.
    - ((4)) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program

participation card. A copy of the identification verification shall be kept on file in the center.

- (6) Prior to employment or performing volunteer work or services, each staff person, employees, and volunteer, as well as any other person who has contact with the children or unsupervised access to the children shall submit a request for a criminal history background information check to the Alabama Bureau of Investigation, Department of Public Safety, accompanied by the following:
  - (a) Prior to or on the first day of employment or performing volunteer services, each staff person, employee, and volunteer, as well as any other person who has contact with the children or unsupervised access to the children, shall sign a statement, including the Mandatory Criminal History Check Notice, indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. A copy of the Mandatory Notice shall be submitted to the Department of Human Resources, Criminal History Checks Unit. A copy shall be kept on file in the center.
  - (b) A staff person, employee, volunteer, or other person who fails or refuses to sign the required Mandatory Criminal History Check Notice and complete the questions shall not be employed or allowed to perform volunteer services.
  - (c) Upon receipt of a signed Mandatory Criminal History Check Notice, revealing no disqualifying convictions, a staff person, employee, and volunteer may be employed or perform volunteer services provisionally at the discretion of the licensee, pending receipt of a suitability determination from the Department.
  - (d) Within five business days of being employed or beginning volunteer service the following shall be submitted to the Alabama Bureau of Investigation, Department of Public Safety:
    - ((1)) Fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.
    - ((2)) Written consent from the applicant for employment or volunteer work or services, for the release of the criminal history background information to the Department of Human Resources. A copy shall be submitted to the Department of Human Resources, Criminal History Checks Unit. A copy shall be kept on file in the center.
    - ((3)) The required fee.
  - (e) Identification verification of name, date of birth, race, sex, and Social Security number in the form of a photo identification from any governmental agency, such as a driver's license, non-driver's identification, or program participation card. A copy of the identification verification shall be kept on file in the center.
- (7) Fingerprints may be collected through the use of ink pads and fingerprint cards or through the use of ink-less "live scan" fingerprinting devices to collect and print fingerprints on cards or transmit the fingerprints

electronically to the Department of Public Safety. When no copy of the fingerprint card is available because of the electronic transmission of live scan fingerprints, written documentation from the individual or law enforcement agency that the fingerprints have been collected and transmitted shall be maintained on file in the center and sent to the Department's Criminal History Check Unit.

- (8) Fingerprints are not required when a disability prevents an individual from being fingerprinted. Disabilities preventing fingerprinting include the loss of both hands, severe scarring of all fingers, closed paralytic hands, and similar disabilities. In situations involving a covered disability, a completed Criminal History Information Consent and Release form is required. The Department of Public Safety shall conduct a criminal history background information check by name and Social Security number in such cases. Documentation or verification that the disability prevents fingerprinting shall be obtained from law enforcement or from an individual trained in fingerprinting techniques and shall be submitted to the Department of Public Safety and the Department of Human Resources.
- (9) Criminal history background information checks shall be performed by the Alabama Department of Public Safety. National criminal history background checks shall be requested by the Department of Public Safety from the Federal Bureau of Investigation. Criminal history background reports shall be sent to the Department of Human Resources.
- (10) The Department of Human Resources shall review the report and determine whether the applicant or other person meets the suitability requirement based on the criminal history background report. The Department shall issue a suitability determination and maintain a confidential file on individuals for whom a criminal history background information report or report updates have been received.
- (11) Upon receipt of a determination of unsuitability, the affected individual shall be terminated from employment or volunteer work in the center.
- (12) The Department shall suspend or revoke the license or deny the initial application or the application for renewal if the applicant/licensee, staff person, employee, volunteer, or another person in the center receives a determination of unsuitable character.
- (13) The Department shall send a copy of the letter determining suitability status to the individual affected and to the licensee of the center. The individual has thirty (30) days from the date of notification to request in writing a reversal of the determination of suitability, if the disqualifying conviction is not for a sex crime or a crime against a child, an elderly individual or an individual with disabilities. The affected individual shall show clear and convincing evidence of successful rehabilitation.
- (14) The Department shall send a copy of the report received from the Department of Public Safety to the affected individual. The affected individual shall have the opportunity to challenge the accuracy of the report.
- (15) If a suitability determination letter is received by the licensee from the Department's Criminal History Check Unit stating an individual is

suitable for employment based on the absence of any disqualifying convictions, the licensee shall make his or her own determination regarding employment or volunteer work. No right to employment is created by the issuance of a letter stating an individual is suitable for employment.

- (16) Only one criminal history background check shall be required per individual. If the individual certifies on the Mandatory Criminal History Check Notice statement that a criminal history check has been performed by the Department, the Department will issue a determination of suitability based on the criminal history report received. If the previous report cannot be obtained, a new criminal history check shall be required.
- (17) The licensee shall inform the Department of any criminal convictions and current criminal charges involving the licensee, staff, employees, volunteers and other persons who have contact with the children or unsupervised access to the children, which occur after a license, permit, or approval is obtained. Such reports shall be made within 24 hours and followed by a written report within five (5) days. This information shall be kept on file by the Department.
- (18) The Department of Human Resources shall not be responsible for the payment of any fees required for obtaining criminal history information.

**d. Evidence of Unsuitable Character**

- (1) Convictions for any of the following crimes *shall* make an applicant for a license or approval to operate; a holder of a license, permit, or approval to operate; a staff person, employee, or volunteer or an applicant for employment or volunteer services unsuitable to hold a license, permit, or approval or to work in a child care center or have contact with the children or unsupervised access to children:
  - (a) Murder, manslaughter, or criminally negligent homicide.
  - (b) A sex crime, including the following:
    - ((1)) Enticing a child to enter a vehicle, room, house, office, or any other space for immoral purposes, as proscribed by Section 13A-6-69 of the Code of Alabama 1975.
    - ((2)) Incest, when the offender is an adult and the victim is a minor, as proscribed by Section 13A-13-3 of the Code of Alabama 1975.
    - ((3)) Kidnapping of a minor, except by a parent, in the first or second degree, as proscribed by Section 13A-6-43 or Section 13A-6-44 of the Code of Alabama 1975.
    - ((4)) Promoting prostitution in the first or second degree, as proscribed by Section 13A-12-111 or Section 13A-12-112 of the Code of Alabama 1975.
    - ((5)) Rape in the first or second degree, as proscribed by Section 13A-6-61 or Section 13A-6-62 of the Code of Alabama 1975.

- ((6)) Sexual misconduct, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.
  - ((7)) Sexual torture, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.
  - ((8)) Sexual abuse in the first or second degree, as proscribed by Section 13A-6-66 or Section 13A-6-67 of the Code of Alabama 1975.
  - ((9)) Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or Section 13A-6-64 of the Code of Alabama 1975.
  - ((10)) Soliciting a child by computer for the purposes of committing a sexual act and transmittal of obscene material to a child by computer as proscribed by Sections 13A-6-110 and 13A-6-111 of the Code of Alabama 1975.
  - ((11)) Violation of the Alabama Child Pornography Act, as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197 of the Code of Alabama 1975.
  - ((12)) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs 1 through 11, inclusive.
  - ((13)) A crime listed in the Community Notification Act, Chapter 20 of Title 15 of the Code of Alabama 1975.
- (c) A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities.
  - (d) A crime committed against a child.
  - (e) A crime involving the sale or distribution of a controlled substance.
  - (f) Robbery.
  - (g) A crime listed in the federal Adoption and Safe Families Act as prohibiting a person from being a foster parent or adoptive parent shall be deemed to make the convicted person unsuitable for employment, volunteer work, approval, or licensure as a foster parent or adoptive parent.
  - (h) A violation or attempted violation of an offense committed outside the State of Alabama or under federal law is a sex crime or any other crime listed in this notice if the offense would be a crime listed in this notice in Alabama.
- (2) Reports of adult or child abuse/neglect (with or without criminal convictions), related to crimes listed in (a) through (h) above, with a final disposition by the hearing officer of indicated, (founded or substantiated) or indicated reports of adult or child abuse/neglect when a hearing was declined, in this or any other state. *(Revised effective July 8, 2005)*
  - (3) Examples of evidence which **may** make an applicant for a license or approval to operate; a holder of a license, permit, or approval to operate; a staff person, employee, volunteer, or an applicant for employment or volunteer services, unsuitable to hold a license, permit, or approval or to

work in a child care center, or have contact with the children or unsupervised access to children shall include but are not limited to the following:

- (a) any felony conviction in this or any other state;
  - (b) theft and other financial crimes related to business activities
  - (c) misdemeanor convictions in this or any other state;
  - (d) operating a motor vehicle while under the influence of or while impaired by the use of intoxicating liquor or drugs;
  - (e) offenses involving the reckless operation of a motor vehicle at an excessive speed;
  - (f) a crime involving the possession of a controlled substance;
  - (g) operating a child care facility without a license, permit, or exemption;
  - (h) refusal to cease operations of an unlicensed child care facility;
  - (i) a history of consistent failure to maintain minimum standards while operating a child care facility;
  - (j) refusal or failure to cooperate in any Department investigation or inspection;
  - (k) making false or misleading statements or reports to the Department;
  - (l) past history of the individual regarding his/her truthfulness;
  - (m) the individual's ability to care for children;
- (4) Indicated (founded or substantiated) reports of adult or child abuse/neglect (with or without criminal convictions), in this or any other state. *(Revised effective July 8, 2005)*
- (5) Evidence in item (3), (a) through (m) and item (4) above, will be evaluated to determine whether or not it constitutes a danger to the children based on the seriousness of the crime, the existence of extenuating circumstances, the propensity to recommit the crime, and evidence of rehabilitation since the crime was committed. *(Revised effective July 8, 2005)*
- (6) An application for a license shall be denied or a license, permit, or approval shall be suspended or revoked if the applicant/licensee, center director, staff person, employee, or volunteer is determined to be of unsuitable character to work with children, to have contact with children or to have unsupervised access to children.

## H. Administration

### 1. Applicant/Licensee

Any person, group of persons or corporation interested in operating a child care center shall:

- a. Apply for a license or authorize, in writing, a representative to do so.
- b. Assume full authority and responsibility for meeting and maintaining minimum standards.
- c. Provide operating funds to staff, equip, and maintain the center.
- d. Designate a director and delegate to her/him the authority/responsibility for the day to day operation and management of the center.
- e. Establish written operating policies of the center.
  - (1) A copy of the center's written operating policies shall be provided to the parent(s)/guardian(s) at the time of the child's enrollment.
  - (2) A copy of the center's written operating policies shall be submitted to the Department.
  - (3) Operating policies shall not contradict the Minimum Standards.
  - (4) Changes in the center's operating policies shall be provided to the parent(s)/guardian(s) and to the Department.

### 2. Reports to the Department

- a. Enrollment reports, indicating the number and ages of children enrolled in the center, shall be submitted to the Department upon written request from the Department.
- b. The following shall be reported in writing to the Department *prior* to occurrence:
  - (1) change in ownership (if a change in ownership occurs, the center shall not continue to operate until the new owner applies for and is issued a license, permit, or approval);
  - (2) change in location (if a change in location occurs, the center shall not continue to operate until a new license is applied for and a license, permit, or approval is issued for the new location);
  - (3) change of the director of the center;
  - (4) change of chief executive officer of the corporation or members of the board;
  - (5) alterations to the center or grounds;
  - (6) major change or extension of basic operating schedule (hours) or program.
  - (7) change in the center's address or telephone number.

- c. The following shall be reported to the Department *within 24 hours after occurrence*, with written explanation to follow within five (5) days:
- (1) any injury requiring professional medical treatment of any child or staff person while at the center or during away from the center activities;
  - (2) any illness occurring at the center or during away from the center activities which requires emergency medical treatment;
  - (3) any death occurring at the center or during away from the center activities;
  - (4) major damage to the facility;
  - (5) interruption of the center's electrical service, telephone service, or gas service (if gas is used for heating or cooking);
  - (6) any litigation involving the center;
  - (7) any traffic accident involving day care children using transportation provided by the center;
  - (8) any arrest or conviction of the licensee or any staff person, employee, or volunteer;
  - (9) final disposition of any child abuse/neglect investigation involving the center, the licensee, or any staff person, employee, or volunteer;
  - (10) any incident in which the health, welfare, or safety of a child is at risk.
- d. Child Abuse/Neglect reports
- (1) Each staff person is required by law (Code of Alabama 1975, Sections 26-14-1 through 26-14-13, see Appendix R, page 117, for details) to report known or suspected child abuse or neglect (see definition, Section A., 5, page 7) to the County Department of Human Resources or the local chief of police, or county sheriff. The report shall be made immediately by telephone or direct oral communication, followed by a written report, containing all known information.
  - (2) Any person making a report in good faith is immune from any civil or criminal liability.
  - (3) The law further provides that all reports of child abuse and neglect, investigative reports by the Department of Human Resources and certain other records of child abuse and neglect are considered confidential under penalty of law.
  - (4) The licensee and all staff persons, employees, and volunteers shall cooperate with Department personnel on any child abuse or neglect investigation, including providing information to the Department's representatives and allowing access to children and records.

### **3. Admission Procedures**

- a. The total number of the children in the care of the center at any given time, including children on the premises (inside and outside), children in transit, and children on field trips or other center activities, shall conform to that which is specified on the license, permit, or approval.

- b. The age range of the children in the care of the center at any given time, including children on the premises (inside and outside), children in transit, and children on field trips or other center activities, shall conform to that which is specified on the license, permit, or approval.
- c. If the center accepts children for drop-in care, all of the following conditions shall be met:
  - (1) vacancies in the group to which the child(ren) will be assigned;
  - (2) staff-child ratio maintained as required;
  - (3) required records maintained and filed;
  - (4) advance arrangement for care made by parent(s)/guardian(s).

#### **4. Children's Records**

- a. Confidentiality
  - (1) Children's records and information about children and their families shall be kept confidential.
  - (2) Confidential information about children and their families shall not be used or disclosed for any purpose not directly related to the well being of the child.
  - (3) Any discussion about children and their families shall be treated as confidential.
  - (4) Confidential information including children's records shall be accessible only to authorized persons.
  - (5) The Department shall have the right to inspect center records, including children's records.
- b. Individual records on each child shall be on file in the center on the child's first day of attendance. Records shall be maintained in the center for at least two years after the child has left the center. Records shall be filed in alphabetical order. Records shall contain originals or clear copies of required information. In-active files shall be maintained separately from active files. Records shall include but need not be limited to:
  - (1) Child's Pre-Admission Record, on the required form, including: child's name; birthdate; home address; name, address, and telephone number of child's parent(s)/guardian(s); name, address, and telephone number of mother's and father's employer; emergency contact information; name, address, and telephone number of child's doctor; signed authorization for emergency medical treatment; special needs or instructions; list of persons child may be released to; statement that parent(s)/guardian(s) understands that the Department does not inspect activities away from the facility; permission signed by the child's parent(s)/guardian(s) for the child to participate in activities away from the facility, transportation provided by the facility, and swimming/wading provided by the facility; child's first day of

attendance; child's withdrawal date. (See Appendix H, page 91, for required form.)

- (2) Records of injury/illness occurring at the center or during away from center activities, which require professional medical attention, emergency medical attention, or hospitalization. (See Section H., 2., c., (1) and (2), page 54.)
- (3) Immunizations
  - (a) On the child's first day of attendance, each child from two (2) months of age to lawful school age and each child of lawful school age who is not enrolled in public or private school kindergarten shall have a valid State of Alabama Certificate of Immunization (ADPH-F-IMM-50), on file in the center, unless one of the following is on file in the center:

A valid State of Alabama Certificate of Medical Exemption (ADPH-F-IMM-50);

**OR**

A valid Alabama Certificate of Religious Exemption (ADPH-F-IMM-52).
  - (b) Each child's Certificate of Immunization shall be updated according to the expiration date indicated on the certificate.
- (4) Authorization for administering medication or medical procedures form if medication or medical procedures have been administered to the child. (See Appendix I, page 93, for required form, see Section D., 6., a., (5), page 33, for additional information).
- (5) Any other information about a child shall be kept in the child's record.

## **5. Center Records**

The following records shall be kept on file for the current year plus two additional years.

- a. Daily attendance records on all staff and children shall be maintained.
- b. Transportation checklists. (See Section E., 1., c., page 35, for requirements. See also Appendix O, page 100, for required form.)
- c. Vehicle safety check. (See Section E., 1., g., page 37, for requirements. See also Appendix P, page 103, for required form.)
- d. Sign-in and sign-out sheets. (See Section E., 2., page 37, for requirements. See also Appendix K, page 95, for form.)

## **6. Documents to be posted in a conspicuous place in the center**

- a. Most recent license, permit, or approval from the Department.

- b. Public notice form (See Appendix N., page 99, for copy.)
- c. Most recent licensing evaluation form.
- d. Most recent deficiency report form from the Department.
- e. Corrective or adverse action notices from the Department.
- f. Most recent fire inspection report.
- g. Most recent Health Department inspection report and food permit or written permission from the Health Department to cater food.
- h. Menu for meals and snacks.
- i. Name and telephone number(s) posted by center telephone(s):
  - (1) Fire department;
  - (2) Law enforcement;
  - (3) Medical assistance (ambulance or rescue);
  - (4) Poison control center;
  - (5) Substitute help.
- j. Emergency procedures (See Section D., 7., page 34, for details.)
- k. The name or the director or staff person in charge. *(Revised effective December 8, 2006)*

**I. Nighttime Centers**

**In addition to the regulations set forth for day care centers, centers providing nighttime care shall meet the following regulations or modifications:**

**1. Equipment and furnishings**

- a. In centers operating past midnight, cribs or cots, fitted with a waterproof mattress, shall be provided for each child.
- b. In centers operating past midnight, there shall be at least one (1) bathing facility for every fifteen (15) children.

**2. Child Care Program**

a. Staffing

(1) Staff-child ratio for **sleeping** children: *(Revised effective July 8, 2005)*

<b>Ages</b>	<b>Staff to Child Ratio</b>
0 up to 18 months	1 to 5
18 months up to 2½ years	1 to 14
2 ½ years up to 4 years	1 to 18
4 years and older	1 to 25

- (2) Required staff-child ratios and grouping for day care centers shall be maintained while the children are awake. (See Section D., 1., a., page 23, for required ratios.)
- (3) At least one staff person who is at least 19 years of age, who meets child care worker qualifications and has a current Infant-Child (Pediatric) Cardiopulmonary Resuscitation Certificate (CPR) and a current First Aid Certificate shall be present in the center during all hours of operation. Copies of the certificates shall be kept on file in the center. On-line CPR and First Aid training are not acceptable. *(Revised effective December 7, 2007)*
- (4) Coverage
  - (a) All children shall have staff supervision at all times. (See Section D., 1., b., (1), page 24, for requirements.)
  - (b) Each staff person giving care before bedtime and bedtime periods shall be assigned the responsibility of caring for the same children nightly.
  - (c) There shall be at least one (1) staff person in each room of sleeping children. Staff shall be able to see all the children at all times.
  - (d) All staff on duty shall be awake and alert to the needs of the children.

- (e) There shall be at least two staff persons age 19 or older available in the center building or on the premises, whenever children are present. **Required staff-child ratios shall be met at all times.**
  - (f) While children are sleeping, lighting shall be maintained at a level that will enable children to be visible.
  
- b. Nightly activity schedule
  - (1) A nightly schedule shall be posted.
  - (2) Outdoor time shall be available to the children during daylight hours.
  - (3) The word "napping" as included in the day care standards shall mean "sleeping" for nighttime centers.
  - (4) The staff shall assist each child, in dressing and grooming, as needed.
  
- c. Food and food service
  - (1) Any child who goes directly from the center to school shall be served breakfast before leaving the center unless breakfast shall be eaten at school.
  - (4) An evening meal shall be served for children in attendance.
  
- d. Bathing
  - (1) If any child in care is bathed, clean water shall be provided for each child. Each child shall be bathed separately. Each child shall be supervised while bathing.
  - (2) An individual bar of soap, an individual towel, and individual washcloth shall be provided for each child who is bathed at the center.

## **J. Corrective and Adverse Actions**

**Corrective or adverse actions may be imposed by the Department when the licensee fails to meet and maintain minimum standards prescribed by the Department. Corrective and adverse actions may include, but need not be limited to: deficiency reports; corrective action plans; probationary status; restrictions or modifications of the provisions of the license, permit, or approval; suspension of a license, permit, or approval; revocation of a license, permit, or approval.**

*Written notice of the corrective or adverse action shall be posted at each public entrance of the child care center.*

*None of these requirements are to be interpreted to allow a center to operate in violation of the minimum standards or out of compliance with the minimum standards.*

### **1. Deficiency Report**

If an inspection, evaluation, or investigation indicates non-compliance with the minimum standards (deficiency), a deficiency report shall be prepared by the Department. A deficiency report is prepared in conjunction with or subsequent to a visit to the center, or after investigation of a substantiated complaint regarding the center. In any visit to the center in which deficiencies are observed or noted, the licensing representative shall complete a deficiency report, and discuss the deficiencies observed or noted with the licensee or facility representative. A copy of the completed deficiency report shall be provided to the licensee or facility representative. No deficiency report shall be completed in conjunction with a precensuring visit.

### **2. Corrective Action**

- a. If an inspection, evaluation, or investigation indicates continued or repeated non-compliance with the minimum standards, or if areas of non-compliance indicated previously on a deficiency report are not corrected, a corrective action plan may be developed to allow the licensee to achieve compliance with the minimum standards while continuing to care for children. The corrective action plan shall include: a statement of each deficiency; a description of how the deficiency shall be corrected; the date by which corrections shall be completed; and the signature of the Department's representative and the licensee or facility representative.
- b. During the corrective action period, the licensee shall correct each deficiency (area of noncompliance) and shall report the corrections to the Department. The length of time the corrective action plan remains in effect shall be determined based on the nature of the areas of noncompliance. If the licensee fails or refuses

to comply with the minimum standards and the terms of the corrective action plan, the Department may initiate adverse action such as probation or revocation of the license, permit, or approval.

- c. Requests for changes to the provisions of the license such as increases in licensed capacity or changes in the ages of the children received for care, shall not be granted during the corrective action period.

### **3. Probationary Status**

- a. If an inspection, evaluation, or investigation indicates non-compliance with the minimum standards, or if conditions exist that could pose a hazard to the health and safety of the children in care, a period of probationary status may be instituted to allow the licensee to achieve compliance with the minimum standards while continuing to care for children. At the beginning of the probationary period the licensee shall be provided with: a statement of each deficiency; a description of how the deficiency shall be corrected; the date by which corrections shall be completed; and the signature of the Department's representative and the licensee or facility representative.
- b. During the probationary period, the licensee shall correct each deficiency (area of noncompliance) and shall report the corrections to the Department. The length of the period of probationary status shall be determined based on the nature of the areas of noncompliance. The maximum period shall be six months. At the end of the probationary period, the center's license shall be returned to active status if the center is in compliance with the minimum standards. If the licensee fails or refuses to comply with the minimum standards during the probationary period, the Department may initiate revocation of the license, permit, or approval.
- c. Requests for changes to the provisions of the license such as increases in licensed capacity or changes in the ages of the children received for care, shall not be granted during the period of probationary status.

### **4. Restriction or Modification of the Provisions of the License, Permit, or Approval**

The Department shall have the right to immediately suspend, limit, or restrict the license, permit, or approval of a child care center when conditions hazardous to the health and safety of the children exist, including but not limited to:

- a. The right to restrict, limit, or suspend specific activities provided by the child day care/nighttime center, such as but not limited to: away-from-the-center activities; transportation of the children; swimming.

- b. The right to restrict or limit the use of specific areas of the center, such as but not limited to: outdoor play areas; bathrooms; rooms/activity areas used by the children.
- c. The right to reduce the licensed/permitted capacity of the center or to amend the ages of children to be served, due to restricted use of required space or bathroom facilities or lack of qualified staff to meet required staff-child ratios. (See Section D., 1., a., page 23, for required ratios.)

## **5. Revocation of a License**

(See Section 38-7-8, Code of Alabama 1975, page 111.)

The Department may revoke or refuse to renew the license of the child care facility or refuse to issue a full license to the holder of a six-month permit should the operator(s):

- a. Consistently fail to maintain standards prescribed and published by the Department;
- b. Violate the provisions of the license or permit issued;
- c. Furnish or make any misleading or any false statements or reports to the Department;
- d. Refuse to submit to the Department any reports or refuse to make available to the Department any records required by the Department in making investigation of the child care facility for licensing purposes; provided, however, that the Department shall not revoke or refuse to renew a license in such case unless it has made written demand on the person, firm or corporation operating the facility requesting such report or reports and such person, firm or corporation fails or refuses to submit such records for a period of ten days.
- e. Fail or refuse to submit to an investigation by the Department;
- f. Fail or refuse to admit authorized representatives of the Department at any reasonable time for the purpose of investigation;
- g. Fail to provide, maintain, equip and keep in safe and sanitary condition the premises established or used for child care as required under standards prescribed by the Department, or as otherwise required by any law, regulation or ordinance applicable to such facility;
- h. Refuse to display its license or permit; or
- i. Fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, learning experience and other essentials in the proper care, rearing and training of children.

If the Department makes the decision to revoke or refuse to renew the license, approval or six-month permit, a pre-revocation hearing shall be held. The purpose of the pre-revocation hearing is to provide adequate notice of the intended revocation and provide sufficient opportunity for the licensee, permit or approval holder to show why the action should not be taken.

## **6. Suspension of a License, Permit, or Approval**

In accordance with the Code of Alabama 1975, Sections 38-7-11 (see page 113) and 41-22-19(d), (see page 123) the Department has the authority to immediately suspend without notice the license, six-month permit, or approval, if an inspection by the Department of a licensed, permitted, or approved child care facility discloses any condition, deficiency, dereliction, or abuse, which is, or could be, hazardous to the health, safety, or physical, moral, or mental well-being of the children in the care of the child care facility being inspected. In this event, the child care facility shall not operate during the pendency of any proceeding for a fair hearing or judicial review, except under court order. The suspension may remain in effect for a period of not longer than 120 days and shall not be renewable. The license, permit, or approval shall not be suspended for the same or a substantially similar emergency within one calendar year from its first suspension unless the emergency could not have been reasonably foreseen during the initial 120 day period that such emergency would continue or would likely reoccur during the next nine months. When such summary suspension is ordered, a formal suspension or revocation proceeding shall also be promptly instituted and acted upon.

## **7. Penalty for Unlicensed Facilities**

- a. If the Department representative determines, through investigation, that any person, group of persons, or corporation is, or has been, operating a child care facility without a license, six-month permit, or approval, the results of the investigation shall be reported to the Attorney General and to the appropriate District Attorney for prosecution. (See Code of Alabama 1975, Section 38-7-10, see page 112.)
- b. Any person, group of persons, association or corporation who conducts, operates or acts as a child care facility without a license, or a six-month permit or an approval... is in violation of the provisions of Title 38, Chapter 7, Code of Alabama 1975... or any person, etc., who violates any other provision of said Chapter...shall be guilty of a misdemeanor...and shall be fined not less than \$100 nor more than \$1000 or be imprisoned in the county jail not longer than one year or both. (See Code of Alabama 1975, Section 38-7-16, page 1150 nor more than \$1000 or be imprisoned in the county jail not longer than one year or both. (See Code of Alabama 1975, Section 38-7-16, page 115.)

**8. Refusal to Permit Inspections**  
(Code of Alabama 1975, Section 13A-10-3)

- a. A person commits the crime of refusing to permit inspection of property that is owned, possessed or otherwise subject to his/her control if a public servant is legally authorized to inspect such property and an attempt is being made to exercise that authority and he/she:
  - (1) refuses to produce the property for a reasonable inspection; or
  - (2) refuses to permit a reasonable inspection.
- b. For the purposes of this section, “legally authorized inspection” includes any lawful search, sampling, testing or other examination of property, in connection with the regulation of the defendant’s business or occupation, that is authorized by law.
- c. Refusing to permit inspection is a Class C misdemeanor (fine of not more than \$500.00 or imprisonment in county jail for not more than three months).

## **K. Hearings and Appeals**

### **1. Pre-revocation Hearings**

- a. If the Department makes the decision to revoke or refuse to renew the license, six-month permit, or approval, a pre-revocation hearing shall be held in order to discuss the intended action and give the licensee, permit or approval holder an opportunity to show why the action should not be taken. Notice of the pre-revocation hearing and notice of action taken by the Department following the pre-revocation hearing shall be sent to the licensee/permit holder by certified mail unless waived. The pre-revocation hearing shall be held in accordance with the Administrative Code, Chapter 660-1-5, a copy of which may be obtained from the Department on request. The pre-revocation hearing does not alter the licensee, permit or approval holder's right to a fair hearing.
- b. If the Department finds that danger to the health, safety or welfare of the children requires emergency suspension of a license, six-month permit, or approval, the licensee, permit, or approval holder shall be notified in writing of the reason(s) for the decision. The Department may proceed without hearing or upon any abbreviated hearing it finds practicable to suspend the license, six-month permit, or approval. The suspension shall become effective immediately unless otherwise stated. In this event, the child care facility shall not operate during the pendency of any proceeding for a fair hearing or judicial review, except under court order. The suspension may remain in effect for a period of not longer than 120 days and shall not be renewable. The license, permit, or approval shall not be suspended for the same or a substantially similar emergency within one calendar year from its first suspension unless the emergency could not have been reasonably foreseen during the initial 120 day period that such emergency would continue or would likely reoccur during the next nine months. When such summary suspension is ordered, a formal suspension or revocation proceeding shall also be promptly instituted and acted upon.
- c. No pre-denial hearing is required to be held prior to the denial of an initial application for a license.

### **2. Request for a Fair Hearing**

- a. An aggrieved person may request a fair hearing in the following situations:
  - (1) If an application for an initial license is denied;
  - (2) If an application for a renewal of a license is denied;
  - (3) If any application for an initial license or renewal of a license is not acted upon with reasonable promptness, which is defined as sixty (60) days from the date of the receipt by the Department of all information (including but

not limited to: required forms received; investigations and inspections completed) needed to make a decision to grant or deny the license or permit;

**or**

- (4) If a license, six-month permit, or approval is revoked.
- b. Notice of the opportunity to request a fair hearing shall be given by certified mail.
- c. When a pre-revocation hearing has been held, a request for a fair hearing shall be filed within fourteen (14) calendar days of the notice of the revocation. Any existing license or six-month permit shall remain in effect during the fourteen (14) day time period allowed for request of a fair hearing. If a fair hearing is requested, the existing license, six-month permit, or approval shall remain in effect until and including thirty (30) days after the final decision on the request for a fair hearing.
- d. If the Department finds that danger to the health, safety or welfare of the children requires emergency suspension of a license or six-month permit, the licensee, permit or approval holder shall be notified in writing of the reasons for the decision. The existing license or six-month permit shall be suspended immediately or on the date specified in the notice of suspension.
- e. In all other situations where a pre-action hearing has not been held, a request for a fair hearing shall be filed within sixty (60) calendar days of the action (or inaction) with which the aggrieved person is dissatisfied.

### **3. Conduct of a Fair Hearing**

- a. When a pre-revocation hearing has been held, the fair hearing will be conducted on the record. No additional evidence or testimony will be admitted unless it can be shown that it is material to the issues of the case and could not have been presented at the prior hearing with reasonable diligence or that the additional evidence was not allowed at the prior hearing due to unlawful procedures.
- b. When a pre-action hearing has not been held, the fair hearing is to be conducted in accordance with the hearing procedures found in the Administrative Code, Chapter 660-1-5, a copy of which may be obtained from the Department on request.

## **L. Required Equipment List**

### **1. 0 up to 18 months**

*Minimum Equipment Required for Each Group of Children*

- a. Washable soft crib toys - 2 per child
- b. Mobile - 1 attached to each crib (for infants younger than 5 months of age)
- c. Push and pull toys - 1
- d. Record player, tape player, compact disc player, or radio
- e. Age-appropriate records, tapes, or compact discs - 6 per player
- f. Age Appropriate Books - 2 per child
- g. Large soft ball (8+ inches) - 1
- h. Nesting and stacking toys - 2 sets
- i. Washable baby doll - 1
- j. Musical toy - 1
- k. Colorful pictures and posters
- l. Activity boxes, such as busy boxes - 3

### **2. 18 months up to 2½ years**

*Minimum Equipment Required for Each Group of Children*

- a. Art/Music
  - (1) Large non-toxic crayons/markers
  - (2) Paper (variety)
  - (3) Non-toxic playdough
  - (4) Colorful pictures and posters
  - (5) Record, tape, or compact disc player
  - (6) Age appropriate records, tapes, or compact discs - 6 per player
  - (7) Musical toys - 2
- b. Active Play
  - (1) Push and pull toys - 2
  - (2) Large cars, trucks, boats, etc. - 2
  - (3) Sit-on riding toys - 2
  - (4) Large soft balls - 2
- c. Quiet Play
  - (1) Books - 2 per child
  - (2) Age appropriate puzzles - 2 (Complete with all pieces)
  - (3) Nesting and stacking toys - 2 sets
  - (4) Non-wooden building blocks - approximately 20
- d. Homeliving/Dramatic Play
  - (1) Baby Dolls - 2 (complete with all parts)
  - (2) Doll clothes and blankets
  - (3) Doll bed - 1
  - (4) Toy telephones - 2
  - (5) Pots, pans, buckets, large plastic spoons, etc.

- (6) Child-size stove
- (7) Dress-up clothes

**3. 24 months up to 36 months**

*Minimum Equipment Required for Each Group of Children*

- a. Art
  - (1) Non-toxic playdough
  - (2) Large non-toxic crayons/markers
  - (3) Paper
  - (4) Non-toxic finger-paints in primary colors
  - (5) Scissors (blunt-tipped)
- b. Literature/Music
  - (1) Books - 2 per child
  - (2) Record, tape, or compact disc player
  - (3) Appropriate children's records, tapes, or compact discs - 6
  - (4) Rhythm instruments - one for each child in the group
- c. Homeliving/Dramatic Play
  - (1) Baby dolls - 2 (complete with all parts)
  - (2) Child-size stove and sink or combination
  - (3) Cooking utensils and dishes
  - (4) Doll bed
  - (5) Doll clothes and blankets
  - (6) Dress up clothes
  - (7) Toy telephone - 2
- d. Educational/Creative
  - (1) Building blocks - approximately 50
  - (2) Cars, trucks, boats, etc. - 3
  - (3) Age appropriate puzzles - 4 (complete with all pieces)
  - (4) Interlocking manipulative play sets of different types - 3 sets

**4. 2½ years up to 6 years**

*Minimum Equipment Required For Each Group of Children*

- a. Art
  - (1) Easel
  - (2) Non-toxic playdough or clay
  - (3) Large non-toxic crayons/watercolor markers
  - (4) Large sheets of paper
  - (5) Non-toxic finger and cold water paints in primary colors (red, blue and yellow)
  - (6) Scissors (blunt-tipped) - 2 pair per 5 children
  - (7) Non-toxic glue or paste; tape
  - (8) Paint brushes - 4 (variety of sizes with large or long handles)
- b. Educational and Creative
  - (1) Large or medium building blocks - approximately 15

- (2) Small building blocks - approximately 100
- (3) Small cars, trucks, boats, etc. of varying sizes - 6
- (4) Age-appropriate Puzzles - 8 (complete with all pieces)
- (5) Interlocking manipulative play sets of different types - 6 sets
- (6) Matching games – 6 total (no more than 2 electronic games)
- (7) Puppets - 2
- c. Homeliving Area/Dramatic Play
  - (1) Child-sized stove and sink (or combination)
  - (2) Small table and chairs/benches
  - (3) Cooking utensils and dishes (unbreakable)
  - (4) Doll bed or cradle
  - (5) Dolls (complete with all parts) - 2
  - (6) Doll clothes and blankets
  - (7) Dress-up clothes for boys and girls
  - (8) Storage for dress-up clothes
  - (9) Unbreakable Mirror - full length
  - (10) Play telephones - 2
- d. Literature and Music
  - (1) Age appropriate children's books - 2 per child
  - (2) Piano, record player, tape player, or compact disc player
  - (3) Appropriate children's records, tapes, or compact discs (a selection of different types of music) - 1 dozen
  - (4) Rhythm instruments - 1 per child in the group
- e. Nature Study and Science
  - (1) Magnifying glass
  - (2) Magnets
  - (3) Nature collections
  - (4) Measuring and pouring equipment

## 5. 6 years and older

### *Minimum Equipment Required For Each Group of Children*

- a. Jig-saw puzzle - 1 per 5 children
- b. Games: choose indoor or table games suited to the age of the children - 1 per 5 children
- c. Games: choose active or outdoor games suited to the age of the children - 1 per 5 children.
- d. Books suited to the age of the children - 2 per child
- e. Non-toxic tempera paint
- f. Paper (variety)
- g. Record player, tape player, or compact disc player
- h. Age-appropriate records, tapes, or compact discs
- i. Brushes
- j. Non-toxic crayons
- k. Non-toxic glue or paste, tape
- l. Scissors

- m. Interlocking manipulative play sets suited to the age of the children - 1 per 5 children
- n. Non-toxic playdough or modeling clay

**6. Playground Equipment**

*Minimum Equipment Required For Groups Of Twenty-Five Children Or Fewer On The Playground*

- a. Wheel vehicles to sit on and maneuver - 2
- b. Wheel vehicles to pull or push - 2
- c. Balls - 3
- d. Climbing apparatus
- e. Walking board
- f. Crawl through equipment
- g. Digging or sand area
- h. Toys for digging

## M. Meal and Snack Patterns

### 1. Meal and Snack Patterns for Children Ages 1-13 Years

AGES	1 up to 3 years	3 up to 6 years	6 up to 13 years
<b>BREAKFAST</b>			
Milk, fluid	½ cup (4 oz.)	¾ cup (6 oz.)	1 cup (8 oz.)
Juice or fruit or vegetable	¼ cup	½ cup	½ cup
Bread	½ slice	½ slice	1 slice
Cereal: - Cold dry	¼ cup or 1/3 oz.	1/3 cup or ½ oz.	¾ cup or 1 oz.
Cereal - hot cooked	¼ cup	¼ cup	½ cup
<b>SNACK (supplement)</b> <i>(select 2 of these 4 components)</i>			
Milk, fluid	½ cup	½ cup	1 cup
Meat or meat alternate	½ ounce (cooked weight)	½ ounce (cooked weight)	1 ounce (cooked weight)
Juice or fruit or vegetable	½ cup	½ cup	¾ cup
Bread/cereal, enriched or whole grain			
Bread or	½ slice	½ slice	1 slice
Cereal: cold dry or	¼ cup or 1/3 oz.	1/3 cup or ½ oz.	¾ cup or 1 oz.
Hot cooked	¼ cup	¼ cup	½ cup
<b>LUNCH OR SUPPER</b>			
Milk, fluid	½ cup	¾ cup	1 cup
Meat or meat alternate:			
Meat, poultry, or fish, cooked (lean meat without bone)	1 ounce (cooked weight)	1 ½ ounces (cooked weight)	2 ounces (cooked weight)
Cheese	1 ounce	1 ½ ounces	2 ounces
Egg	½	¾	1
Cooked dry beans/peas	¼ cup	3/8 cup	½ cup
Peanut butter	2 tablespoons	3 tablespoons	4 tablespoons
Vegetable/fruit (two or more)	¼ cup total	½ cup total	¾ cup total
Bread or bread alternate, enriched or whole grain	½ slice	½ slice	1 slice

**NOTE:** Meals and snacks provided by the licensee shall comply with meal and snack patterns of the **Food and Nutrition Service, U. S. D. A.**, as stated above.

## 2. Infant Meal Patterns

0-3 months	4-7 months	8-months-1 year
<b>Breakfast</b>		
4 - 6 fl. ounces formula (a) or breast milk (b, c)	4 – 8 fl. Ounces formula (a) or breast milk (b, c)	6 – 8 fl. ounces formula (a) or breast milk (b, c) and 2 - 4 tbsp. infant cereal (a); 1 - 4 tbsp. fruit and or/vegetable and 1 - 4 Tbsp. fruit and/or vegetable
<b>Lunch or supper</b>		
4 - 6 fl. ounces formula (a) or breast milk (b, c)	4 – 8 fl. Ounces formula (a) or breast milk (b, c)  0 – 3 Tbsp. Infant cereal (a, d)  0 – 3 Tbsp. Fruit and/or vegetable (d)	6-8 ounces fl. formula (a) or breast milk (b, c) and 2-4 tbsp. infant cereal (a) and/or 1-4 tbsp. meat, fish, poultry, egg yolk, or cooked dry beans or peas, or ½ - 2 ounces cheese or 1-4 ounces cottage cheese, cheese food, or cheese spread and 1 – 4 Tbsp. fruit and/or vegetable
<b>Supplements</b>		
4-6 fl. Ounces formula (a) or breast milk (b, c)	4-6 fl. Ounces formula (a) or breast milk (b, c)	2-4 fl. ounces formula (a) or breast milk, (b, c) or fruit juice (e); and 0-1/2 slice bread (d, f) or 0-2 crackers (d, f)

- (a) Infant formula and dry infant cereal shall be iron-fortified.
- (b) It is recommended that breast milk be served in place of formula from birth through 11 months.
- (c) For some breastfed infants who regularly consume less than the minimum amount of breast milk per serving, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
- (d) A serving of this component shall be optional.
- (e) Fruit juice shall be full-strength.
- (f) Bread and bread alternates shall be made from whole grain or enriched meal or flour.
- (g) **NOTE:** Formula and foods to be provided by the licensee to infants shall be planned with the infant's parent(s)/guardian(s) or by the child's physician with the parent(s)/guardian(s) knowledge and consent.
- (h) Meals and snacks provided by the licensee to infants shall comply with infant meal patterns of the **Food and Nutrition Service, USDA**, as stated above.

### III. APPENDICES

#### A. Application for a license to operate a day care/nighttime center

DHR-CDC-1946

Revised 1/06

STATE OF ALABAMA  
DEPARTMENT OF HUMAN RESOURCES

APPLICATION FOR A LICENSE TO OPERATE  
A DAY CARE/NIGHTTIME CENTER

In accordance with Title 38, Chapter 7, Code of Alabama 1975, application is hereby made for a license to operate a Day Care and/or Nighttime Center.

First Application

Application for Renewal

Name of Applicant (*Individual or Corporation*): \_\_\_\_\_

Social Security Number of Applicant (*if an individual*): \_\_\_\_\_

Federal Tax Identification Number (*if applicable*): \_\_\_\_\_

(NOTE: Social Security Number or Federal Tax Identification Number is required by the Department's Administrative Rules for identification purposes.)

Address of Applicant: \_\_\_\_\_  
(Number and Street) (City) (State) (Zip Code) (County)

Telephone Number of Applicant: (\_\_\_\_\_) \_\_\_\_\_

Name of Center: \_\_\_\_\_

Physical Address of Center: \_\_\_\_\_  
(Number and Street) (City) (State) (Zip Code) (County)

Mailing Address of Center: \_\_\_\_\_  
(Number and Street) (City) (State) (Zip Code) (County)

Telephone Number of Center: (\_\_\_\_\_) \_\_\_\_\_

Name of the Center Director: \_\_\_\_\_

Name and title of the person with the authority to sign the application for a license:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

Name and title of the person with responsibility and authority to work with the Department Representative:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

## I. ADMINISTRATION

### A. Center Operations

1. Attach a copy of the center's written operating policies if this is the center's first application or if there have been any changes in the operating policies since the last application.
2. Attach policies regarding charges and services.
3. What age children will the center serve? \_\_\_\_\_
4. What hours will the center be open each day?  
\_\_\_\_\_ a.m./p.m. to \_\_\_\_\_ a.m./p.m.
5. What days will the center be open each week? \_\_\_\_\_
6. What months will the center be open each year? \_\_\_\_\_
7. Who will be in charge when the Director is not in the center? \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

### B. Organization

#### *If incorporated:*

1. Attach the name, address, and telephone number of the Board Chairman or President of the Corporation.
2. Attach the names, addresses, and telephone numbers of the Executive Board members.
3. Attach a copy of the incorporation papers.
4. Attach a copy of the by-laws and constitution, if applicable.

### C. Personnel

1. Is required information for staff on file in the center? Yes  No   
(See Minimum Standards, Section II., F., for requirements.)
2. List staff and give information requested on attached staff information sheet.
3. Complete attached staff schedule sheet and attach.

## II. FACILITY

- A. Attach most recent fire department inspection report.
- B. Attach most recent health department inspection report.
- C. Attach most recent health department approval of catering plan if food is to be catered.
- D. Attach a floor plan of the center (for first applications and renewal applications if changes have been made in the building).
- E. Have outdoor fencing requirements been met? Yes  No   
(See Minimum Standards, Section II., C., 4., for requirements)
- F. Bathroom facilities available to the children
  1. Number of flush toilets \_\_\_\_\_
  2. Number of handwashing sinks \_\_\_\_\_
  3. Handwashing sink with warm running water in each diapering area? \_\_\_\_\_
- G. Is required equipment in the center? Yes  No   
(See Minimum Standards, Section II., L., 1 through 6, for requirements.)

## III. AGREEMENT

**I hereby agree that if I am issued a license or permit or renewal of a license to operate a day care/nighttime center for children, I will:**

- A. Maintain standards prescribed and published by the Department;
- B. Adhere to the provisions of the license or permit issued;
- C. Not furnish or make any misleading or any false statements or reports to the Department;
- D. Submit to the Department any reports or make available to the Department any records required by the Department in making an investigation for licensing purposes;

- E. Submit to investigation by the Department;
- F. Admit authorized representatives of the Department at any reasonable time for the purpose of investigation;
- G. Provide, maintain, equip and keep in safe and sanitary condition the premises established or used for child care as required under standards prescribed by the Department, or otherwise required by any law, regulation or ordinance applicable to such facility;
- H. Display the license or permit; and
- I. Maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, learning experience and other essentials in the proper care, rearing and training of children.

\_\_\_\_\_/\_\_\_\_\_  
Signature of applicant / Date

**IV. NOTICE OF PENALTY FOR FALSE STATEMENTS**

In accordance with Title 38, Chapter 7, Section 16, Code of Alabama 1975, any person, group of persons, association or corporation who makes materially false statements in order to obtain a license or permit shall be guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$1,000.00 or be imprisoned in the county jail not longer than one year, or both, and, in case of an association or corporation, imprisonment may be imposed upon its officers who knowingly participated in the violation. Understanding the penalties for false statements, I attest that the statements in this application are true and correct, to the best of my knowledge and belief.

**V. BACKGROUND INFORMATION:**

**A. Child Care:**

Have you ever applied for or held any license or approval or been registered or certified to operate a child care facility of any kind in any county, state, or country? \_\_\_\_\_  
If yes, give details.

\_\_\_\_\_  
\_\_\_\_\_

**B. Criminal History Background Information Checks:**

In accordance with Alabama Law, (Code of Alabama 1975, Title 38, Chapter 13, effective November 1, 2000), a criminal history background information check shall be completed on all applicants for a license or approval and staff persons, employees, volunteers, and applicants for employment or volunteer work.

If this is your first application, you must complete a Mandatory Criminal History Notice Form and a Criminal History Information Consent and Release Form. The fee must be submitted with the fingerprints and the consent form. Required forms are available from the Department. If you previously had a criminal history check done for the Department of Human Resources and the required information is on file, it is not necessary to complete a criminal history check at the time of application for renewal.

**C. Current Criminal Charges:**

Are there any current criminal charges against you? \_\_\_\_\_  
If yes, give details.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**D. Clearance of State Central Registry on Child Abuse/Neglect:**

At the time of initial application, a completed request for clearance of the State Central Registry on Child Abuse/Neglect shall be submitted to the Department on the required form (Alabama Department of Human Resources Request for Clearance of State Central Registry on Child Abuse/Neglect, DHR-DFC Form 1598), for each applicant for a license or approval to operate a child care center. The applicant shall obtain a completed request for clearance of the State Central Registry on Child Abuse/Neglect for each center director, staff person, employee, and volunteer.

**VI. CERTIFICATION AND SIGNATURE**

This application shall be signed by the applicant/owner/licensee or by his/her authorized designee if the applicant/owner/licensee is an individual. If the applicant/owner/licensee is a corporation, written verification from the corporation that the person signing the application has the authority to do so shall be indicated on the first page of the application form. The original application form must be submitted. Copies of the application form or application forms received by FAX cannot be accepted.

**NOTE: The application for renewal of a license shall be submitted at least 30 calendar days prior to the expiration of the current license.**

\_\_\_\_\_/\_\_\_\_\_  
Signature Date

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**Return the completed application form and any attachments to the Alabama Department of Human Resources at the address below:**

**Department of Human Resources  
Child Care Services Division  
Office of Child Care Licensing  
50 Ripley Street  
Montgomery, Alabama 36130**





**B. Licensing application attachment**

**DHR-CDC-1945**  
Revised 1/06

**LICENSING APPLICATION ATTACHMENT**

*This form must be completed for each applicant, owner, and center director. Completed attachment forms must be submitted with the Application for a License.*

<b>Name:</b>	_____			
	Last	First	Middle	Maiden
<b>Address:</b>	Street: _____			
	City: _____			
	State: _____		Zip Code _____	
Telephone Number: (     ) _____		Date of Birth: _____		
Social Security Number: _____		Name of Spouse (if married): _____		
How long have you lived in the county where you now reside?		Last previous address (if applicable): _____		

**REFERENCES:**

List at least three (3) persons who are not related to you by blood, marriage, or adoption, whom may be contacted as references. At least one (1) must be a former employer. Addresses must be complete and accurate.

**Name of Former Employer:** \_\_\_\_\_  
Last
First
Middle

**Address:** \_\_\_\_\_  
Street
City

\_\_\_\_\_ (     ) \_\_\_\_\_  
State
Zip Code
Telephone Number

**Name:** \_\_\_\_\_  
Last
First
Middle

**Address:** \_\_\_\_\_  
Street
City

\_\_\_\_\_ (     ) \_\_\_\_\_  
State
Zip Code
Telephone Number

**Name:** \_\_\_\_\_  
Last
First
Middle

**Address:** \_\_\_\_\_  
Street
City

\_\_\_\_\_ (     ) \_\_\_\_\_  
State
Zip Code
Telephone Number

**EDUCATION:** *(Attach a copy of your high school or college diploma, G.E.D. certificate, or transcript)*

EDUCATION	School/Institution	Dates Attended	Diploma/Degree/Certificate
Elementary			
High School			
College			
Graduate			
Other			

**CHILD CARE TRAINING:** *(Attach copies of certificates)*

List all courses, workshops, and conferences related to child development, early childhood education, and administration or management of child care centers. Attach additional pages if necessary.

Title of course/ Workshop/conference	Sponsor	Location	Date(s)	Number of hours

**EMPLOYMENT HISTORY:**

List in order beginning with your most recent employment. Attach additional pages if necessary.

Employer	Employer's Address	Position/Job	Date(s) Worked	Reason for leaving

**BACKGROUND INFORMATION:**

**Child Care:**

Have you ever applied for or held any license or approval or been registered or certified to operate a child care facility of any kind in any county, state, or country? \_\_\_\_\_

If yes, give details.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Criminal History Background Information Checks:**

In accordance with Alabama Law, (Code of Alabama 1975, Title 38, Chapter 13, effective November 1, 2000), a criminal history background information check shall be completed on all applicants for a license or approval and staff persons, employees, volunteers, and applicants for employment or volunteer work.

If this is your first application, you must complete a Mandatory Criminal History Notice Form and a Criminal History Information Consent and Release Form. The fee must be submitted with the fingerprints and the consent form. Required forms are available from the Department. If you previously had a criminal history check done for the Department of Human Resources and the required information is on file, it is not necessary to complete a criminal history check at the time of application for renewal.

**Current Criminal Charges:**

Are there any current criminal charges against you? \_\_\_\_\_

If yes, give details.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Clearance of State Central Registry on Child Abuse/Neglect:**

At the time of initial application, a completed request for clearance of the State Central Registry on Child Abuse/Neglect shall be submitted to the Department on the required form (Alabama Department of Human Resources Request for Clearance of State Central Registry on Child Abuse/Neglect, DHR-DFC Form 1598), for each applicant for a license or approval to operate a child care center. The applicant shall obtain a completed request for clearance of the State Central Registry on Child Abuse/Neglect for each center director, staff person, employee, and volunteer.

**By signing this form, I am affirming that the above statements I have made are true and factual to the best of my knowledge; and I am granting permission for all persons, organizations, or agencies listed above to be contacted for information regarding my background.**

\_\_\_\_\_/\_\_\_\_\_  
Signature / Date

### C. Mandatory Criminal History Check Notice

<b>Agency Name:</b> _____
<b>Address:</b> _____
<b>City:</b> _____ <b>State:</b> <u>Alabama</u> <b>Zip:</b> _____

Alabama law requires that a criminal history background information check be conducted on applicants for certain DHR positions and on all persons who hold a license or work in a Department of Human Resources licensed child care or adult care home, a foster or adoptive home approved by the Department of Human Resources, or a licensed child placing agency, including all officers and agents of the entity. You are required to provide full, complete, and accurate information on your criminal conviction history upon application for a license or employment. This information shall be used to determine your suitability to provide care to children, the elderly, or disabled individuals. Unless a criminal history background information check report and suitability determination have previously been obtained, you must complete a written request and consent for a criminal history background information check with fingerprints at the time of application for employment. Refusal to complete these documents or providing false information shall result in refusal of employment, approval, or licensure. The term conviction includes a determination of guilt by a trial, by a plea of guilty, or a plea of nolo contendere. Any individual determined to have submitted false information shall be referred to the district attorney or law enforcement for investigation and possible prosecution. An individual who intentionally falsifies any information on the statement is guilty of a Class A misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000) and imprisonment for not more than one year.

- Convictions for any of the following crimes shall make an individual unsuitable for employment, volunteer work, approval, or licensure:
1. Murder, manslaughter, or criminally negligent homicide.
  2. A sex crime.  
A sex crime includes the following:
    - a) Enticing a child to enter a vehicle, room, house, office, or any other space for immoral purposes, as proscribed by Section 13A-69 of the Code of Alabama 1975.
    - b) Incest, when the offender is an adult and the victim is a minor, as proscribed by Section 13A-13-3 of the Code of Alabama 1975.
    - c) Kidnapping of a minor, except by a parent, in the first or second degree, as proscribed by Section 13A-6-43 or Section 13A-6-44 of the Code of Alabama 1975.
    - d) Promoting prostitution in the first or second degree, as proscribed by Section 13A-12-111 or Section 13A-12-112 of the Code of Alabama 1975.
    - e) Rape in the first or second degree, as proscribed by Section 13A-6-61 or Section 13A-6-62 of the Code of Alabama 1975.
    - f) Sexual misconduct, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.
    - g) Sexual torture, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.
    - h) Sexual abuse in the first or second degree, as proscribed by Section 13A-6-66 or Section 13A-6-67 of the Code of Alabama 1975.
    - i) Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or Section 13A-6-64 of the Code of Alabama 1975.
    - j) Soliciting a child by computer for the purposes of committing a sexual act and transmittal obscene material to a child by computer as proscribed by Sections 13A-6-110 and 13A-6-111 of the Code of Alabama 1975.
    - k) Violation of the Alabama Child Pornography Act, as proscribed by Sections 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197 of the Code of Alabama 1975.
    - l) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs a. to k., inclusive.
    - m) A crime listed in the Community Notification Act, Chapter 20 of Title 15 of the Code of Alabama 1975.
  3. A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities.
  4. A crime committed against a child.
  5. A crime involving the sale or distribution of a controlled substance.
  6. Robbery.
  7. Conviction for a violation or attempted violation of an offense committed outside the State of Alabama is a sex crime or any other crime the offense would be a crime in Alabama.

#### CRIMINAL HISTORY STATEMENT

**Have you ever had a suitability determination made by the Department of Human Resources in connection with a previous criminal history information background check? Yes ( ) No ( ). If yes, send form to DHR.**  
**Have you ever been convicted of a crime? Yes ( ) No ( ). If yes, state on the lines below the date, crime, location, punishment imposed, and whether the victim was a child or an elderly or disabled individual.**

\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_ Signature \_\_\_\_\_ Print name \_\_\_\_\_

Social Security Number \_\_\_\_\_

**D. Medical report for persons giving care to children**

**MEDICAL REPORT FOR PERSONS GIVING CARE TO CHILDREN**

Name:	Date of birth:
Address:	Position in child care facility:

**To the examining medical doctor, physician's assistant, or certified nurse practitioner:**

**This examination is needed to determine my physical ability to care for children or to perform services in a child care facility (home or center) or to have contact with children in care. I hereby authorize you to furnish a report of my examination to:**

\_\_\_\_\_  
**Name of child care facility or Department of Human Resources**

\_\_\_\_\_/\_\_\_\_\_  
Signature Date

**TESTS** (to be completed if other verification is not attached):

Date and result of Intradermal Tuberculin Test (Mantoux): \_\_\_\_\_  
(Required for initial examination only)

Date and result of chest x-ray if Mantoux was positive: \_\_\_\_\_

**HISTORY** of any chronic disease or disability that may affect his/her ability to care for children or perform services in a child care facility: Yes ; No .

**PHYSICAL LIMITATIONS** that may affect his/her ability to care for children or perform services in a child care facility (home or center): Yes ; No .

If "YES", to either question, please explain:

\_\_\_\_\_  
\_\_\_\_\_

In my opinion, the physical examination reveals that the above-named person is free of any infectious or contagious disease and is physically fit to care for children, to perform services in a child care facility, or to have contact with children.

If not, please explain:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_  
**Signature of medical doctor, physician's assistant, or certified nurse practitioner / Date**

**E. Application form for staff**

**DHR-CDC-1947**  
Revised 1/06

**APPLICATION FORM FOR STAFF**

(including caregivers, employees, teachers, substitutes, volunteers, cooks, bus drivers, domestic workers)

Date of Application \_\_\_\_\_

Position \_\_\_\_\_

**Date Hired** \_\_\_\_\_

<b>Name:</b>	_____			
	Last	First	Middle	Maiden (if applicable)
<b>Address:</b>	Street: _____			
	City: _____			
	State: _____		Zip Code _____	
<b>Telephone Number:</b> (     )			<b>Date of Birth:</b>	
<b>Driver's License Number:</b>			<b>Expiration Date of Driver's license:</b>	

**EDUCATION:**

EDUCATION	School/Institution	Dates Attended	Diploma/Degree/Certificate
Elementary			
High School			
College			
Graduate			
Other			

**CHILD CARE TRAINING:**

List all courses, workshops, and conferences related to child development and early childhood education. Attach additional pages if necessary. Attach copies of certificates received.

Title of course/Workshop/conference	Sponsor	Location	Date(s)	Number of hours

**EMPLOYMENT HISTORY:**

List in order beginning with your most recent employment. Attach additional pages if necessary.

Employer	Employer's Address	Position/Job	Date(s) Worked	Reason for leaving

**REFERENCES:**

List at least three persons who are not related to you by blood, marriage, or adoption. to be contacted as references. **At least one must be a former employer.** Addresses must be complete and accurate.

Name of Former Employer: \_\_\_\_\_  
Last
First
Middle

Address: \_\_\_\_\_  
Street
City  
 \_\_\_\_\_  
State
Zip Code
( )
Area Code
Telephone Number

Name: \_\_\_\_\_  
Last
First
Middle

Address: \_\_\_\_\_  
Street
City  
 \_\_\_\_\_  
State
Zip Code
( )
Area Code
Telephone Number

Name: \_\_\_\_\_  
Last
First
Middle

Address: \_\_\_\_\_  
Street
City  
 \_\_\_\_\_  
State
Zip Code
( )
Area Code
Telephone Number

**Criminal History Background Information Checks:**

In accordance with Alabama law, (Code of Alabama 1975, Title 38, Chapter 13, effective November 1, 2000), the criminal history background information check shall be completed on each substitute, caregiver, volunteer, and domestic worker, as well as any other person who has contact with the children or unsupervised access to the children shall be reviewed.

You must complete a Mandatory Criminal History Notice Form and a Criminal History Information Consent and Release Form. The fee must be submitted with the fingerprints and the consent form. Required forms are available from the Department. If you previously had a criminal history check done for the Department of Human Resources and the required information is on file, it is not necessary to complete a criminal history check.

**Current Criminal Charges:**

Are there any current criminal charges against you? \_\_\_\_\_

If yes, give details.

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**Clearance of State Central Registry on Child Abuse/Neglect:**

A completed REQUEST FOR CLEARANCE OF STATE CENTRAL REGISTRY ON CHILD ABUSE/NEGLECT (DHR-DFC-1598) shall be obtained for each caregiver, substitute, volunteer, domestic worker, and any other person who has contact with the children or unsupervised access to the children.

**By signing this form, I am affirming that the above statements I have made are true and factual to the best of my knowledge; and I am granting permission for all persons, organizations, or agencies listed above to be contacted for information regarding my background.**

---

**Signature** **Date**



7. To your knowledge, does this person have qualities, traits, or abilities that make him/her particularly suitable to care for children? Yes  No  Please explain.

---

---

8. Do you know of any reason why this person might not be suitable to care for children? Yes  No  If yes, please explain.

---

---

9. If you have any additional comments about this person you feel would be useful when considering his/her application for employment in a child care facility, please state below.

---

---

---

---

---

---

Signature

Date

Telephone number

**Please return this form to:**

Name of person requesting information: \_\_\_\_\_

Name of child care facility (home/center): \_\_\_\_\_

Address of facility:

Street: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone Number: (\_\_\_\_\_) \_\_\_\_\_

If you prefer **not** to provide a reference for this person, please sign here and return this form to the address above.

---

Signature

Date





Describe any special needs or instructions below:


Person(s) the child may be released to:

Name	Relationship to child	Address	Telephone number

***I understand that the Department of Human Resources does not inspect activities away from the child care facility (home or center). The licensee of the child care facility assumes full responsibility for such activities.***

\_\_\_\_\_ / \_\_\_\_\_  
*Signature of parent/guardian                      Date*

I give permission for my child to participate in:

(Circle yes or no and sign each line)

Activities away from the facility:	yes	no	Signature of parent/guardian	Date
Transportation provided by the facility:	yes	no	Signature of parent/guardian	Date
Swimming/wading activities provided by the facility:	yes	no	Signature of parent/guardian	Date

**Form not valid without signature of child's parent/guardian in each space indicated above.**

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This section is to be completed by the facility's staff.

Child's first day of attendance: \_\_\_\_\_ Child's withdrawal date: \_\_\_\_\_

*Additional information may be attached.*

**I. Authorization for administering medication**

**DHR-CDC-1949**

**AUTHORIZATION FOR ADMINISTERING MEDICATION/MEDICAL PROCEDURES**

Dear Parent/guardian,

Your written permission is required to administer medication or medical procedures to your child. Any prescription drug or over-the-counter drug sent to the child care facility (home or center) must be in its original container and must be clearly labeled with your child's name, the name of the drug, and directions for administering the drug. A new authorization form is needed each week. If it is absolutely necessary for your child to be given medication while at the child care facility, **please complete the following information.**

**Child's Name** \_\_\_\_\_

**Prescription Number** \_\_\_\_\_

**Name of Medication** \_\_\_\_\_

**Amount of medication to be given at each dosage** \_\_\_\_\_

**Instructions (how to give or apply, such as give by mouth, apply to skin, inhale, drops in eyes, etc.)** \_\_\_\_\_

**Time and date of last dosage given at home** \_\_\_\_\_

**Time(s) of dosage(s) to be given at the child care facility** \_\_\_\_\_

*Please give my child the above-named medication at the time(s) and in the amount(s) indicated.*

\_\_\_\_\_  
**Signature of parent/guardian**

\_\_\_\_\_  
**Date**

**To be completed by licensee/staff/caregiver**

Date medication given	Time medication given	Signature of person giving medication

**J. Injury/illness report form**

**DHR-CDC-1950**

**INJURY/ILLNESS REPORT FORM  
Child Care Facilities (Homes/Centers)**

Any injury or illness requiring emergency medical treatment, of a child while in the care of the child care facility (home/center), **must be reported to the Department of Human Resources within 24 hours after occurrence, followed by a written report within 5 days.** This report must be made by the licensee or the person responsible for the child. A copy of the report must be kept in the child's file at the child care facility.

<b>Name of Center:</b>	<b>Address of Center:</b> Street: _____ City: _____ County: _____
<b>Child's Name:</b>	<b>Child's Date of Birth:</b>
<b>Date injury/illness occurred:</b>	<b>Time injury/illness occurred:</b>
<b>Name of Child's Parent/guardian:</b>	<b>Time Parent/guardian was contacted:</b>

**Describe the injury/illness, including type, severity, location: (If reporting an injury, describe how it occurred)**


**Give the name, address, and telephone number of the physician or emergency medical personnel contacted, the time and date contact was made, and the physician's comments and diagnosis regarding the injury/illness:**


**Was the Department of Human Resources notified within 24 hours? Yes  No**

Signature of Staff Person/Caregiver in Charge:	Date:
Signature of Licensee/Director:	Date:

**K. Sign in/sign out form**

**DHR-CDC-1951 (A)**

**SIGN IN/SIGN OUT FORM  
Child Care Facilities  
(Homes/Centers)**

Each child must be signed in at each arrival and signed out at each departure. Time of arrival and departure must be indicated on the form. The signature of the parent, guardian, or other designated person is required. Initials are not acceptable.

Name of Licensee/Facility: \_\_\_\_\_ Date: \_\_\_\_\_

<b>Child's Name</b>	<b>Time in</b>	<b>Signature</b>	<b>Time out</b>	<b>Signature</b>

**SIGN IN/SIGN OUT FORM**  
**Child Care Facilities**

Each child must be signed in at each arrival and signed out at each departure. Time of arrival and departure must be indicated on the form. The signature of the parent, guardian, or other designated person is required. Initials are not acceptable. A staff person must sign the bottom of the form at the end of the day, indicating all children have been signed out.

Name of Center: \_\_\_\_\_ Date: \_\_\_\_\_

Child's Name	Time in	Signature	Time out	Signature	Time in	Signature	Time out	Signature

\_\_\_\_\_  
Signature of Staff Person Checking Form

**L. Sample operating policies**

**SAMPLE**

The licensee shall establish written operating policies. A copy of the center's written operating policies shall be provided to the parent(s)/guardian(s) at the time of the child's enrollment. Changes in the center's operating policies shall be provided to the parent(s)/guardian(s) and the Department. A copy of the center's written operating policies shall be submitted to the Department. Operating policies shall not contradict the Minimum Standards.

The center's operating policies *may* include but need not be limited to:

1. Statement of purpose
2. Admission procedures and requirements
3. Fees and fee payment procedures
4. Arrival and departure procedures
5. Transportation policies if provided by the center
6. Days and hours the center will be open
7. Feeding program
8. Health and medical information
9. Clothing and personal belongings
10. Emergency procedures

**M. Sample schedule**

**SAMPLE SCHEDULE**

**PRESCHOOL/SCHOOL-AGE CHILDREN**

There shall be a posted schedule of the day for each group of children. A variety of indoor and outdoor experiences shall be available. Preschool and school-age children shall spend time out doors daily when weather permits. A supervised rest period shall be scheduled for preschool children in attendance at the center more than 5 hours. Rest period shall not be less than 45 minutes and shall not exceed 2 ½ hours. Children who do not sleep after 45 minutes of rest shall be permitted to engage in quiet activities. School age children shall not be required to nap. Children's toileting shall be according to each child's needs. Children in attendance shall be served breakfast or a morning snack, a nutritious midday meal, and at least one afternoon snack.

The following sample schedule may be used or revised according the needs of the children.

<b>A. M.</b>	<b>Activity</b>	<b>P. M.</b>	<b>Activity</b>
7:00	Arrival, free play	12:00	Toileting, handwashing
8:00	Group time, teacher led activities	12:15	Naptime
8:20	Small group activities, creative art, music, etc.	2:30	Naptime ends, toileting, handwashing
8:40	Toileting, hand-washing	2:45	Afternoon snack
8:45	Morning snack (or breakfast)	3:00	Indoor free play
9:00	Indoor free play	3:30	Small group activities, art, music
9:45	Small group activities, science, math, etc.	3:45	Toileting, handwashing
10:00	Outdoor play	4:00	Outdoor play
10:45	Toileting, hand-washing	4:30	Indoor free play, quiet activities
11:00	Quiet group activities, stories, music, etc.	6:00	Center closes
11:30	Lunch		

N. Public notice form

## **PUBLIC NOTICE**

A copy of the Minimum Standards for Day Care Centers and Nighttime Centers - Regulations, and Procedures may be obtained by contacting the Department of Human Resources.

**Address:**

**Department of Human Resources  
Child Care Services Division  
50 Ripley Street  
Montgomery, AL 36130**

**Telephone number:**

**1-866-528-1694**

Complaints regarding known or suspected violations of the Minimum Standards, may be reported to the Department of Human Resources at the address and telephone number above.

Information regarding substantiated licensing complaints and violations of the Minimum Standards may be obtained from the Department of Human Resources at the address and telephone number above.



## BEFORE/AFTER SCHOOL TRANSPORTATION CHECKLIST

This form is to be used when children are transported from the child care facility to school or from school to the child care facility.

### INSTRUCTIONS

Use a check { ✓ } to show the child is present at each location. A check { ✓ } must be placed in the box for each child showing the child entered the vehicle at the child care facility and left the vehicle at the school, if child care facility to school transportation is provided. A check { ✓ } must be placed in the box for each child, showing the child entered the vehicle at the school and left the vehicle at the child care facility.

Use the letter {A} in the appropriate box to show the child is absent.

Use the comments section to explain any unusual situation, such as the parent picks the child up at school or the facility only transports the child in the afternoon.

A separate checklist must be used for each vehicle.

<b>Destination (school):</b>										<b>Date (week of):</b>																			
<b>Driver's name:</b>										<b>Time of trip: From:</b>					<b>To:</b>														
<b>Name (s) of caregivers/adult riders:</b>										<b>Ages of children:</b>																			
Monday										Tuesday					Wednesday					Thursday					Friday				
Child's name	Depart Facility	Arrive School	Depart School	Arrive Facility	comments	Depart Facility	Arrive School	Depart School	Arrive Facility	comments	Depart Facility	Arrive School	Depart School	Arrive Facility	comments	Depart Facility	Arrive School	Depart School	Arrive Facility	comments	Depart Facility	Arrive School	Depart School	Arrive Facility	comments				
Signature of Person completing checklist in a.m.	a.m. signature					a.m. signature					a.m. signature					a.m. signature													
Signature of Person completing checklist in p.m.	p.m. signature					p.m. signature					p.m. signature					p.m. signature													
	Driver's signature a.m.					Driver's signature a.m.					Driver's signature a.m.					Driver's signature a.m.													
	Driver's Signature p.m.					Driver's Signature p.m.					Driver's Signature p.m.					Driver's Signature p.m.													

The checklist must be completed at each location and signed by the person completing the checklist. The driver must check each seat in the vehicle at each location to verify that no child is left on the vehicle.

**WEEKLY TRANSPORTATION CHECKLIST**

**This form is to be used when children are transported from their home to the child care facility and from the child care facility to their home.**

**INSTRUCTIONS**

Use a check { ✓ } to show the child is present at each location. A check { ✓ } must be placed in the box for each child showing the child entered the vehicle at their home and left the vehicle at the child care facility, if transportation from home is provided. A check { ✓ } must be placed in the box for each child, showing the child entered the vehicle at the child care facility and left the vehicle at their home.

Use the letter {A} in the appropriate box to show the child is absent.

Use the comments section to explain any unusual situation, such as the parent picks the child up at the child care home, or the child care facility only transports the child in the afternoon.

The checklist must be completed at each location and signed by the person completing the checklist.

**A separate checklist must be used for each vehicle.**

<b>Destination (school):</b>					<b>Date (week of):</b>															
<b>Driver's name:</b>					<b>Time of trip: From: To:</b>															
<b>Name (s) of caregivers/adult riders:</b>					<b>Ages of children:</b>															
	<b>Monday</b>				<b>Tuesday</b>				<b>Wednesday</b>				<b>Thursday</b>				<b>Friday</b>			
<b>Child's name</b>	Depart Home	Arrive Facility	Depart Facility	Arrive Home	comments	Depart Home	Arrive Facility	Depart Facility	Arrive Home	comments	Depart Home	Arrive Facility	Depart Facility	Arrive Home	comments	Depart Home	Arrive Facility	Depart Facility	Arrive Home	comments
<b>Signature of Person completing checklist in a.m.</b>	a.m. signature				a.m. signature				a.m. signature				a.m. signature				a.m. signature			
<b>Signature of Person completing checklist in p.m.</b>	p.m. signature				p.m. signature				p.m. signature				p.m. signature				p.m. signature			
	Driver's signature a.m.				Driver's signature a.m.				Driver's signature a.m.				Driver's signature a.m.				Driver's signature a.m.			
	Driver's Signature p.m.				Driver's Signature p.m.				Driver's Signature p.m.				Driver's Signature p.m.				Driver's Signature p.m.			

The checklist must be completed at each location and signed by the person completing the checklist. The driver must check each seat in the vehicle at each location to verify that no child is left on the vehicle.

P. Vehicle inspection sheet

DHR-CDC-1955

**VEHICLE INSPECTION SHEET**  
**Child Care Facility Vehicles**

*A safety check must be done annually and signed and dated by a mechanic, on all vehicles regularly used to transport children.*

<b>Date of inspection</b>	
<b>Name of center</b>	
<b>Owner of vehicle</b>	
<b>Make of vehicle</b>	
<b>Model of vehicle</b>	
<b>Tag number</b>	
<b>Vehicle ID Number</b>	

On this date, a safety check was done on the vehicle described above. I have determined that the items checked {✓} below are operating in a safe condition.

<b>ITEM</b>	<b>CHECK</b>	<b>COMMENTS</b>
Brakes		
Tires		
Head lights		
Signal lights		
Brake lights		
Tail lights		
Windshield wipers		
Steering		
Exhaust system		
Ventilation system		
Heating system		
Passenger restraint system		
<b>Signature of mechanic:</b>	<b>Name and address of business:</b>	
<b>Telephone number:</b>		

## Q. Alabama Notifiable Diseases/Conditions

### ALABAMA NOTIFIABLE DISEASES/CONDITIONS

#### GROUP A DISEASES/CONDITIONS-REPORT TO THE COUNTY (OR STATE) HEALTH DEPARTMENT BY TELEPHONE, TELEGRAPH, OR IN PERSON WITHIN 24 HOURS OF DIAGNOSIS.

Botulism	Pertussis
Cholera	Poliomyelitis, paralytic
Diphtheria	Rabies, human and animal
<i>H. influenzae</i> , invasive disease+	Trichinosis
Hepatitis A	Tuberculosis
Listeriosis	Typhoid fever
Measles (rubeola)	Yellow fever
<i>N. meningitidis</i> , invasive disease ++	Outbreaks
+i.e., meningitis, epiglottitis, sepsis, cellulitis, septic arthritis, osteomyelitis, pericarditis, and type b pneumonia	
++ Detection of organism from normally sterile site (e.g. blood and cerebrospinal fluid)	

#### GROUP B DISEASES/CONDITIONS- REPORT IN WRITING TO THE COUNTY (OR STATE) HEALTH DEPARTMENT WITHIN 7 DAYS OF DIAGNOSIS.

Amebiasis	Legionellosis
Anthrax, human	Leprosy
Brucellosis	Leptospirosis
Campylobacteriosis*	Lyme disease
Chancroid*	Lymphogranuloma venereum*
Chlamydia trachomatis*	Malaria
Dengue fever	Meningitis, aseptic
E.coli 0157:H 7 (including HUS & TTP)	Mumps
Encephalitis, viral	Psittacosis
Giardiasis	Reye syndrome
Gonorrhea*	Rocky Mountain spotted fever
Granuloma inguinale*	Rubella
Hepatitis B	Salmonellosis
Hepatitis, other viral	Shigellosis
Histoplasmosis	Syphilis*
Human Immunodeficiency Virus	Tetanus
infection ** (including asymptomatic	Toxic shock syndrome
infection, ARC, and AIDS)	Tularemia
Kawasaki disease	Vibriosis

Lead, elevated blood levels ( $\geq 15$  mcg/dl)

\*Use Sexually Transmitted Diseases report card

\*\*HIV -seropositivity to be reported by laboratories; symptomatic cases to be reported by clinicians to state Division of AIDS Prevention & Control (334)613-5364 or 1-800-344-1153.

#### State Health Department Telephone Numbers:

Division of Epidemiology (334) 613-5347 or 1-800-338-8EPI ( 24-hour coverage)

Division of HIV/AIDS Prevention & Control (334) 613-5364 or 1-800-344-1153

Division of Sexually Transmitted Diseases (334) 613-5350

Division of Tuberculosis Control (334) 613-5330

Division of Immunization (334) 242-5023

Bureau of Clinical Laboratories (334) 260-3400 (24-hour coverage)

## **R. Alabama Law**

**NOTE:** *The following excerpts of Alabama law are printed in this document as a resource. These laws are not a part of the regulations promulgated by the Department of Human Resources.*

### **Code of Alabama 1975, Title 38, Chapter 7, Child Care**

#### **§ 38-7-1. Short title.**

This chapter shall be known and may be cited as the Child Care Act of 1971. (Acts 1971, 3rd Ex. Sess., No. 174, p.4423, § 1.)

#### **§ 38-7-2. Definitions.**

Terms used in this chapter, unless the context otherwise requires, have the meanings ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number, and the word "shall" is always mandatory and not merely directory:

(1) **CHILD.** Any person under 19 years of age, a person under the continuing jurisdiction of the juvenile court pursuant to § 12-15-32, or a person under 21 years of age in foster care as defined by the Department of Human Resources.

(2) **CHILD-CARE INSTITUTION or INSTITUTION FOR CHILD CARE.** A child-care facility where more than 10 children are received and maintained for the purpose of providing them with care or training or both, or transitional living program services, but does not include:

a. Any institution for child care which is under the ownership or control, or both, of the state of Alabama, or which is operated or certified or licensed by another agency or department of the state of Alabama;

b. Any juvenile detention home established and operated by the state of Alabama;

c. Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades 1 through 12, or taught in public elementary schools, high schools or both elementary schools and high schools.

(3) **CHILD-PLACING AGENCY.** A public or private child-care facility which receives, places, or arranges for the placement of any child or children in adoptive or foster family homes or other facilities for child care apart from the custody of the child's or children's parents. The term "child-placing agency" includes, but is not limited to, all agencies established and maintained by a municipality or other political subdivision of the State of Alabama to protect, guard, train or care for children outside their own homes, but does not include any circuit

court or juvenile court or any duly appointed juvenile probation officer or youth counselor of the court who receives and places children under an order of the court.

(4) **DAY CARE CENTER.** Any child-care facility receiving more than 12 children for daytime care during all or part of a day. The term "day care center" includes, but is not limited to, facilities commonly called "child-care centers," "day nurseries", "nursery schools", "kindergartens" and "play groups", with or without stated educational purposes. The term further includes, but is not limited to, kindergarten or nursery schools or other daytime programs operated as a part of a private school and receiving children younger than lawful school age for daytime care for more than four hours a day, with or without stated educational purposes. The term does not include any of the following:

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

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

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

d. Facilities operated for more than four hours a day in connection with a shopping center or service or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available. The facilities shall meet local and state fire and health requirements.

e. Any type of day care center that is conducted on federal government premises.

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

(5) **DAY CARE HOME.** A child-care facility which is a family home and which receives not more than six children for care during the day.

(6) **DEPARTMENT.** The department of human resources of the state of Alabama.

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

(8) **FOSTER FAMILY HOME.** A child-care facility in a residence of a family where the family receives a child or children, unrelated to that family, for the purpose of providing family care or therapeutic family care and training, or transitional living program services on a full-time basis. The types of foster family homes are defined as follows:

a. **BOARDING HOME.** A foster family home wherein the foster family receives a child or children and receives payment for their care. The number of children so received shall not exceed six, unless the children are of common parentage.

b. FREE HOME. A foster home which does not receive payment for the care of a child or children and which may or may not receive the child or children for the purpose of adoption.

(9) GROUP DAY CARE HOME. A child care facility which is a family home and which receives at least seven but no more than twelve children for care during part of the day where there are at least two adults present and supervising the activities.

(10) GROUP HOME. A child-care facility where at least seven but not more than 10 children are received and maintained for the purpose of providing them with care or training or both, or transitional living services.

(11) MATERNITY CENTER. A facility in which any person, agency or corporation receives or cares for one or more minor pregnant girls, except that the term does not include hospitals.

(12) NIGHT CARE FACILITY. A child-care facility which is a center or a family home receiving a child or children for care during the night. A "night care facility" is further defined as follows:

a. NIGHTTIME CENTER. A facility which is established to receive more than twelve children for nighttime care.

b. NIGHTTIME HOME. A family home which receives no more than six children for nighttime care.

c. GROUP NIGHTTIME HOME. A child care facility which is a family home which receives at least seven but no more than twelve children for nighttime care and where there are at least two adults present and supervising the activities.

(13) RELATED. Any of the following relationships by blood, marriage or adoption: parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, halfbrother, halvesister, uncle or aunt, and their spouses.

(14) TRANSITIONAL LIVING FACILITY. A child-care facility or program that is designed to give opportunities to practice independent living skills to eligible persons at least 16 years of age and under 21 years of age in foster care on a variety of residential settings with varying degrees of care and supervision.

**§ 38-7-3. License to operate or conduct child-care facility-Required; exemption for church preschool programs, filing of notices, maintaining records, etc., form for affidavits by parents or guardians; investigation of complaints by district attorney.**

No person, group of persons or corporation may operate or conduct any facility for child care, as defined in this chapter, without being licensed or approved as provided in this chapter; provided, however, that nothing in this section or in this chapter prohibits an employee of the department from carrying out the duties of the department as provided in this title. Provided, further, the provisions of this chapter shall not apply to preschool programs which are an integral part of a local church ministry or a religious nonprofit elementary school, and are so recognized in the church or school's documents, whether operated separately or as a part of a religious nonprofit elementary school unit, secondary school unit or institution of higher learning under the governing board or authority of said local church or its convention, association, or regional body to which it may be subject; provided that notice is filed by the governing board or authority of the church or school with the department that said church or school meets the definition of a

local church ministry or a religious nonprofit elementary school under terms of this Act and are exempt from regulation by the department and a notice of intent to operate said programs is given to the appropriate fire and health departments so that said facilities shall be inspected in accordance with the state and local fire and health requirements for such programs. In addition, all exempt churches hereunder shall publish annually, on church letterhead, a notice to the department certifying that the following records are being maintained by the church: fire and health inspection reports; immunization verifications for all children; medical history forms for all staff and children and that the following information shall be available to parents or guardian prior to enrolling their children in said church ministry; staff qualifications; pupil-staff ratio; discipline policies; type of curriculum used in the learning program; the religious teachings to be given each child; and the type of lunch program available; provided further that prior to enrolling and annually thereafter parents or guardian and a responsible individual representing the governing board as authority of the church or school be required to sign and file with the department the affidavits provided by this Act that the parents or guardian have been notified by said responsible individual that the church or school has filed notice and is exempt from regulation by the department. The district attorney of the county in which the preschool program is located shall, upon proper presentment of charges, investigate at his discretion any allegations against any such church under the laws of the State of Alabama.

**FORM OF AFFIDAVIT for Parent/Guardian)**

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

Before me, a notary public in and for said state and county, appeared \_\_\_\_\_ and is known to me, after being duly sworn or affirmed, says as follows:

That affiant is the parent or legal guardian of the minor child/children \_\_\_\_\_; that affiant has been notified by \_\_\_\_\_, a representative of \_\_\_\_\_ church/school, that said church or school has filed notice and is exempt under law from regulation by the department of human resources.

\_\_\_\_\_ Parent/Legal Guardian

Sworn, or affirmed to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

**FORM OF AFFIDAVIT for Church/School**

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

Before me, a notary public in and for said state and county, appeared \_\_\_\_\_ and is known to me, after being duly sworn or affirmed says as follows:

That affiant is the designated representative of \_\_\_\_\_ church/school and that the below listed parents/guardians have been notified prior to enrollment/re-enrollment that \_\_\_\_\_ church/school has

filed notice with and is exempt under law from regulation by the department of human resources: \_\_\_\_\_.

\_\_\_\_\_ Representative  
Sworn or affirmed to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_ Notary Public

**§ 38-7-4. Same-Application; investigation; application to operate foster family home may be made to licensed child-placing agency.**

Any person, group of persons or corporation who or which receives children or arranges for care or placement of one or more children unrelated to the operator shall apply for a license or for approval to operate one of the types of child-care facilities defined in this chapter. Application for such license or approval to operate a child-care facility shall be made to the department in the manner and on forms prescribed by it. The department, upon receiving such application, shall examine the premises of the child-care facility, including buildings, equipment, furnishings and appliances thereof and shall investigate the person responsible for the care of children therein. If, upon such examination of the facility and investigation of the persons responsible for care of children, the department is satisfied that the facility and the responsible persons reasonably meet standards prescribed for the type of child-care facility for which application is made, the department shall issue a license or an approval in the proper form, designating on said license or approval the type of child-care facility, and, except for a child-placing agency, the number of children to be served at any one time. Application to operate a foster family home may be made to a licensed child-placing agency as defined in subdivision (7) of section 38-7-2, and such licensed child-placing agency may examine said foster family home and investigate persons therein responsible for the care of children, and, upon being satisfied that the foster family home and the responsible persons reasonably meet standards prescribed by the department, said licensed child-placing agency may issue an approval to said foster family home. (Acts 1971, 3rd. Ex. Sess., No. 174, p. 4423, § 4.)

**§ 38-7-5. Same -- Issuance and term; temporary permits.**

(a) Licenses or approvals shall be issued in such form and manner as prescribed by the department and are valid for two years from the date issued, unless revoked by the department or voluntarily surrendered by the licensee, or by the child-care facility designated on the notice of approval, provided that:

(1) Licenses or approvals for boarding home are valid for one year from the date of issuance, unless revoked by the department, or by the licensed child-placing agency which issued the approval, or unless voluntarily surrendered by the licensee or by the child-care facility designated on the notice of approval;

(2) Approvals for free homes shall continue in effect until notice of disapproval is given by the department, or by the licensed child-placing agency which issued the approval, or until the child-care facility designated on the notice of approval voluntarily withdraws.

(b) The department may issue a six-month permit to a facility for child care to allow such facility reasonable time to become eligible for a full license; provided, however, that no such six-month permit shall be issued to a foster family home. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 5.)

**§ 38-7-6. Same -- Renewal; reexamination; renewal of approval of boarding home.**

(a) A licensed or approved child care facility operating under this chapter shall apply for renewal of its license or approval, the application to be made to the department on forms prescribed by it; provided, however, that application for renewal of approval of a boarding home may be made to the licensed child-placing agency which issued the approval.

(b) The department shall reexamine every child-care facility for renewal of license or approval, including in that process, but not limited to, the examination of the premises and records of the facility and the persons responsible for the care of children as the department considers necessary to determine that minimum standards for licensing or approval continue to be met; provided, however, that in the case of a boarding home approved by a licensed child-placing agency, such reexamination may be made by said agency. If the department or the licensed child-placing agency, as the case may be, is satisfied that the facility continues to meet and maintain minimum standards which the department prescribes and publishes, the department shall renew the license or approval to operate the facility or the licensed child-placing agency shall renew its approval of a boarding home. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 6.)

**§ 38-7-7. Same-Department to establish minimum standards for licensing; factors to be considered, children in need of special treatment; department to offer consultation.**

(a) The department shall prescribe and publish minimum standards for licensing and for approving all child-care facilities, as defined in this chapter. In establishing such standards the department shall seek the advice and assistance of persons representative of the various types of child-care facilities. The standards prescribed and published under this chapter shall include regulations pertaining to:

(1) The operation and conduct of the child-care facility and the responsibility it assumes for child care;

(2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of children served;

(3) The general financial ability and competence of the applicant to provide necessary care for children and to maintain prescribed standards;

(4) The number of individuals or staff required to insure adequate supervision and care of the children served;

(5) The appropriateness, safety, cleanliness and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to state laws and municipal codes to provide for the physical comfort, care, well-being and safety of children served;

(6) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the healthy physical and mental development of children served, consistent with the definitions contained in this chapter;

(7) Maintenance of records pertaining to the admission, progress, health and discharge of children, and provisions for confidentiality of such records;

(8) Filing of reports with the department; and

(9) Discipline of children.

(b) If, in a facility for child care, there are children diagnosed as mentally ill, mentally retarded or physically handicapped who are determined to be in need of special mental treatment or of nursing care, or both mental treatment and nursing care, the department shall seek the advice and recommendation of the department of mental health or the state board of health, of both, regarding the residential treatment and nursing care provided by the facility.

(c) The department, in applying standards prescribed and published, as herein provided, shall offer consultation through employed staff or other specified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a license and to help them otherwise to achieve programs of excellence related to the care of children served. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 7.)

#### **§ 38-7-8. Same -- Revocation or refusal to renew the license -- Grounds.**

The department may revoke or refuse to renew the license or the approval of any child-care facility or refuse to issue a full license to the holder of a six-month permit should the license or the child-care facility designated on the notice of approval or the holder of a six-month permit:

(1) Consistently fail to maintain standards prescribed and published by the department;

(2) Violate the provisions of the license issued;

(3) Furnish or make any misleading or any false statements or report to the department;

(4) Refuse to submit to the department any reports or refuse to make available to the department any records required by the department in making investigation of the child-care facility for licensing purposes, provided, however, that the department shall not revoke or refuse to renew a license in such case unless it has made written demand on the person, firm or corporation operating the facility requesting such report or reports and such person, firm or corporation fails or refuses to submit such records for a period of 10 days;

(5) Fail or refuse to submit to an investigation by the department;

(6) Fail or refuse to admit authorized representatives of the department at any reasonable time for the purpose of investigation;

(7) Fail to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child care as required under standards prescribed by the department, or as otherwise required by any law, regulation or ordinance applicable to such facility;

(8) Refuse to display its license or permit; or

(9) Fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services,

clothing, learning experience and other essentials in the proper care, rearing and training of children. (Acts 1971, 3rd Ex. Sess, No. 174, p. 4423, § 8.)

**§ 38-7-9. Same -- Aggrieved party entitled to hearing; review of final decision or action of department; bond; when decision may be set aside; section not applicable to boarding homes and free homes.**

In the event a party or an applicant for a license or a licensee is denied a license or a renewal of a license or has a license suspended or revoked for the operation of a child-care facility required by this chapter to be licensed by the department, or in the event an application for such a license or renewal of a license is not acted upon with reasonable promptness, or in the event an approval required by this chapter to be issued by the department is denied or revoked or unduly delayed, any aggrieved party may appeal to the department for a fair hearing of his case. Notice and opportunity for a fair hearing and notice of right to counsel shall be given the appellant by the department, and at this hearing any party at interest may appear and present any relevant facts. The decision or action of the department on any fair hearing on any such appeal shall be final and binding and shall be complied with.

Any party aggrieved by a final decision or action of the department refusing to grant or to issue, or suspending or revoking a license or an approval for the operation of any child-care facility required by law to be licensed or approved by the department is entitled to a review of such final decision or action by filing a complaint with the circuit court in the county in which the child-care facility is located or in the circuit court of Montgomery County, Alabama. All such complaints shall be filed within 30 days from the date of such final decision or action, and a review shall be granted as a matter of right upon the filing with the department of a bond for security of costs of said review and upon filing said complaint both with the register or clerk of the circuit court, as designated hereunto, and with the department. The court may set aside the final decision of the department only upon a finding of the court that such final decision was illegal, capricious, or unsupported by the evidence. Upon motion of either party or upon its own motion the court may at its discretion take additional evidence. The provisions of this section shall not apply to boarding homes and free homes as defined in this chapter. (Acts 1971, 3rd Ex. Sess., No 174, p. 4423, § 9.)

**§ 38-7-10. Same -- Investigation of operation without license; report to attorney general for prosecution.**

Whenever the department is advised or has reason to believe that any person, group of persons or corporation is operating a child-care facility without a license or an approval or a six-month permit, it may make an investigation to ascertain the fact. If it finds that the child-care facility is being operated or has operated without a license or an approval or a six-month permit, it shall report the results of its investigation to the attorney general and to the appropriate district attorney for prosecution; provided, however, that the department may delay in making said report to the attorney general for a reasonable period of time, not to exceed 60 days, in order to give the person, group of persons or corporation operating the child-care facility reasonable opportunity to apply for a license or an approval or a six-month permit, and therefore,

to meet the standards prescribed in this chapter. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 10.)

#### **§ 38-7-11. Inspection of facilities.**

The department shall have the right and its authorized representatives shall be afforded reasonable opportunity, to inspect any child-care facility seeking a license or an approval or a six-month permit pursuant to this chapter, any child-care facility seeking a renewal of a license or an approval or a six-month permit pursuant to this chapter and any child-care facility which is operating under a license or an approval or a six-month permit issued pursuant to this chapter. Such inspection shall include, but not be limited to, premises, services, personnel, program, accounts and records, interviews with agents and employees of the child-care facility being inspected and interviews with any child or other person within the custody or control of said child-care facility. Such inspection shall be made at any reasonable time, without prior notice and as often as necessary to enforce and administer the provisions of this chapter. It shall be the duty of the department, through its agents, to conduct the inspections authorized hereinabove. If any such inspection of a licensed or approved child-care facility discloses any condition, deficiency, dereliction or abuse which is, or could be hazardous to the health, the safety of the physical, moral or mental well-being of the children in the care of the child-care facility being inspected, the same shall at once be brought to the attention of the department, and the department shall have the power to revoke without notice the license or approval or six-month permit of such child-care facility. In this event, the child-care facility shall not operate during the pendency of any proceeding for fair hearing, or judicial review, except under court order. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 11.)

#### **§ 38-7-12. Advertisements.**

A child-care facility licensed or approved or operating under a six-month permit issued by the department may publish advertisements of the services for which it is specifically licensed or approved or issued a permit under this chapter. No person, unless licensed or approved or holding a permit as a child-care facility, may cause to be published any advertisement soliciting a child or children for care or placement. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 12.)

#### **§ 38-7-13. Records to be kept by child-care facility; use and disclosure of information.**

Every child-care facility shall keep and maintain such records as the department may prescribe pertaining to the admission, progress, health and discharge of children under the care of the facility. Records regarding children and facts learned about children and their relatives shall be kept confidential by the child-care facility and by the department. The department is authorized to promulgate rules and regulations governing the custody, use and disclosure of information in such records. Any person who has arrived at the age of 19 and who was placed by the department or by a licensed child-placing agency shall have the right to receive from the department or from the licensed child-placing agency information concerning his placement;

except, that the name and address of a natural parent or relative shall be given by the department or the licensed child-placing agency only with the consent of said natural parent or relative. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 13.)

**§ 38-7-14. Reports by child-care facility.**

Every child-care facility shall make reports to the department on forms prescribed by the department and at times required by the department, giving information pertaining to the children under care and such other facts as the department may require. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 14.)

**§ 38-7-15. Conditions precedent to bringing child into state for purposes of adoption or placement in child-care facility.**

(a) No person or agency shall bring or send any child into the state of Alabama for the purpose of placing him or procuring his adoption or placing him in any child-care facility, as defined herein, without first obtaining the consent of the department. The department shall have the power to impose and enforce reasonable conditions precedent to the granting of such consent. Such conditions shall be for the purpose of providing the same care and protection for the child coming into the state of Alabama for placement or adoption as are afforded to a child who is born in the state of Alabama, and such conditions shall include the following:

(1) The department shall be authorized to designate an agency in another state from which said child is being brought or sent, or in which said child's parents or guardian may be found, to interview said parent or parents or guardians, or at least one of them, for the purpose of obtaining social information, background information and medical information about said child;

(2) The department shall be authorized to receive such information from the designated agency in the other state;

(3) The department shall be authorized to receive the birth certificate of said child from the designated agency in the other state or from other appropriate agency in the other state;

(4) The department shall be authorized to make a thorough investigation of the proposed foster parent or parents, and their home, to determine whether or not they are financially able, physically able and morally fit to have the care, supervision, training and control of said child;

(5) The department shall be authorized to make a thorough investigation of any child-care facility to which any child is being brought or sent to determine conformity to minimum standards prescribed herein for approval or licensing and to determine the suitability of such child-care facility for the care, supervision, training and control of said child.

(6) In case said child, subsequent to being brought into the state of Alabama, becomes dependent, neglected or delinquent prior to his adoption or becoming of legal age of majority, said child shall be subject to the laws of the state of Alabama as if he were a resident child of this state;

(7) The child will be placed in conformity with the rules and regulations of the department;

(8) The person with whom the child is placed shall be responsible for his proper care and training;

(9) The department shall have the right of visitation and supervision of the child and the home or the child-care facility in which he is placed until adoption becomes final or the child becomes 18 years of age;

(10) The department may, pursuant to the provisions of this chapter, prescribe the conditions of an agreement or contract with the designated out-of-state agency, when a child is brought into the state of Alabama.

(b) The person or agency receiving the child in Alabama shall report to the department at such reasonable times as the department may direct, as to the location and well-being of the child, so long as he shall remain within the state and until he shall have reached the age of 18 years or shall have been legally adopted. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 15.)

#### **§ 38-7-16. Penalties; burden of proof of relationship.**

Any person, group of persons, association or corporation who:

(1) Conducts, operates or acts as a child-care facility without a license, or a six-month permit or an approval to do so in violation of the provisions of this chapter;

(2) Makes materially false statements in order to obtain a license or permit;

(3) Fails to keep the records and make the reports provided under this chapter;

(4) Advertises any service not authorized by the license or permit held;

(5) Publishes any advertisement in violation of this chapter;

(6) Receives within this state any child in violation of section 38-7-15;

(7) Violates any other provision of this chapter or any reasonable rule or regulation adopted and published by the department for the enforcement of the provisions of this chapter, shall be guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$1,000.00 or be imprisoned in the county jail not longer than one year, or both, and, in case of an association or corporation, imprisonment may be imposed upon its officers who knowingly participated in the violation.

In a prosecution under this chapter, a defendant who relies upon the relationship of any child to himself has the burden of proof as to that relationship. (Acts 1971, 3rd. Ex. Sess., No. 174, p. 4423, § 16.)

#### **§ 38-7-17. Duty of district attorney to enforce chapter or prosecute violations.**

It shall be the duty of every district attorney or assistant district attorney within the circuit, county or other territory for which he is elected or appointed to institute action for the enforcement of the provisions of this chapter or to prosecute action for the violation of the provisions of this chapter, or both. (Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, § 17.)

**§ 38-7-18. Mandatory state subsidized child day-care services program.**

(a) There is hereby provided a mandatory state subsidized child day-care services program within the department of human resources for a minimum average of 6,500 eligible children at not less than the current department of human resources payment rates for a payment-to-provider cost of not less than \$8,600,000.00, annually, based on fiscal year ending September 30, 1987.

(b) There is hereby provided, in addition to any and all other appropriations to the department of human resources, a conditional appropriation of \$2,400,000.00 from the Alabama special educational trust fund for the fiscal year beginning October 1, 1987, to the department of human resources, to provide child day-care services for an additional 1,800 eligible children. The appropriation herein provided is conditional upon the condition of the Alabama special educational trust fund as ascertained by the governor, and shall be released only upon orders of the governor. (Acts 1987, No. 87-822, § 1, 2.)

## **Title 26, Chapter 14, Reporting of Child Abuse or Neglect**

### **§ 26-14-1. Definitions.**

For the purposes of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **ABUSE.** Harm or threatened harm to a child's health or welfare. Harm or threatened harm to a child's health or welfare can occur through nonaccidental physical or mental injury, sexual abuse or attempted sexual abuse or sexual exploitation or attempted sexual exploitation. "Sexual abuse" includes rape, incest and sexual molestation as those acts are defined by Alabama law. "Sexual exploitation" includes allowing, permitting or encouraging a child to engage in prostitution and allowing, permitting or encouraging or engaging in the obscene or pornographic photographing, filming or depicting of a child for commercial purposes.

(2) **NEGLECT.** Negligent treatment or maltreatment of a child, including the failure to provide adequate food, medical treatment, clothing or shelter; provided, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone, shall not be considered a negligent parent or guardian; however, such an exception shall not preclude a court from ordering that medical services be provided to the child, where his health requires it.

(3) **CHILD.** A person under the age of 18 years.

(4) **DULY CONSTITUTED AUTHORITY.** The chief of police of a municipality or municipality and county; or the sheriff, if the observation of child abuse or neglect is made in an unincorporated territory; or the department of human resources; or any person, organization, corporation, group or agency authorized and designated by the department of human resources to receive reports of child abuse and neglect; provided, that a "duly constituted authority" shall not include an agency involved in the acts or omissions of the reported child abuse or neglect. (Acts 1975, No. 1124, p. 2213, § 1, Acts 1981, No. 81-615, p. 1031, Acts 1981, No. 81-789, p. 1387.)

### **§ 26-14-2. Purpose of chapter.**

In order to protect children whose health and welfare may be adversely affected through abuse and neglect, the legislature hereby provides for the reporting of such cases to the appropriate authorities. It is the intent of the legislature that, as a result of such efforts, and through the cooperation of state, county, local agencies and divisions of government, protective services shall be made available in an effort to prevent further abuses and neglect, to safeguard and enforce the general welfare of such children, and to encourage cooperation among the states in dealing with the problems of child abuse. (Acts 1975, No. 1124, p. 2213, § 1.)

### **§ 26-14-3. Mandatory reporting.**

(a) All hospitals, clinics, sanitariums, doctors, physicians, surgeons, medical examiners, coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, nurses, school teachers and officials, peace officers, law enforcement officials, pharmacists, social workers, day care workers or employees, mental health professionals or any other person called upon to render aid or medical assistance to any child, when such child is known or suspected to be a victim of child abuse or neglect, orally, either by telephone or direct communication immediately, followed by a written report, to a duly constituted authority.

(b) When a report is made to a law enforcement official, such official subsequently shall inform the department of human resources of the report so that the department can carry out its responsibility to provide protective services to the respective child or children. (Acts 1965, No. 563, p. 1049, § 1; Acts 1967, No. 725, p. 1560, Acts 1975, No. 1124, p. 2213, § 1.)

### **§ 26-14-4. Permissive reporting.**

In addition to those persons, firms, corporations and officials required by Section 26-14-3 to report child abuse and neglect, any person may make such a report if such person has reasonable cause to suspect that a child is being abused or neglected. (Acts 1975, No. 1124, p. 2213, § 1.)

### **§ 26-14-5. Contents of reports.**

The reports provided for in this chapter shall state, if known, the name of the child, his whereabouts, the names and addresses of the parents, guardian or caretaker and the character and extent of his injuries. The written report shall also contain, if known, any evidence of previous injuries to said child and any other pertinent information which might establish the cause of such injury or injuries, and the identity of the person or persons responsible for the same. (Acts 1965, No. 563, p. 1049, § 2; Acts 1975, No. 1124, p. 2213, § 1.)

### **§ 26-14-6. Temporary protective custody.**

A police officer, a law enforcement official or a designated employee of the state or county department of human resources may take a child into protective custody, or any person in charge of a hospital or similar institution or any physician treating a child may keep that child in his custody, without the consent of the parent or guardian, whether or not additional medical treatment is required, if the circumstances or conditions of the child are such that continuing in his place of residence or in the care and custody of the parent, guardian, custodian or other person responsible for the child's care presents an imminent danger to that child's life or health. However, such official shall immediately notify the court having jurisdiction over juveniles of such actions in taking the child into protective custody; provided, that such custody shall not exceed 72 hours and that court of competent jurisdiction and the department of human resources shall be notified immediately in order that child-protective proceedings may be initiated. During

such period of temporary custody, the director of the county department of human resources may give or cause to be given effective consent for medical, dental, health and hospital services for any abused or neglected child. (Acts 1975, No. 1124, p. 2213, § 1.)

**§ 26-14-7. Duties of department of human resources.**

(a) The state or county department of human resources shall make a thorough investigation promptly upon either the oral or written report. The primary purpose of such an investigation shall be the protection of the child.

(b) The investigation, to the extent that is reasonably possible, shall include:

- (1) The nature, extent and cause of the child abuse or neglect;
- (2) The identity of the person responsible therefor;
- (3) The names and conditions of other children in the home;
- (4) An evaluation of the parents or person responsible for the care of the child;
- (5) The home environment and the relationship of the child or children to the

parents or other persons responsible for their care; and

(6) All other data deemed pertinent.

(c) The investigation may include a visit to the child's home, an interview with the subject child, and may include a physical, psychological or psychiatric examination of any child or children in that home. If the admission to the home, school or any other place that the child may be, or permission of the parent or other persons responsible for the child or children, for the physical, psychological or psychiatric examination, cannot be obtained, then a court of competent jurisdiction, upon cause shown, shall order the parents or persons responsible and in charge of any place where the child may be to allow the interview, examinations and investigation. If, before the examination is complete, the opinion of the investigators is that immediate removal is necessary to protect a child or children from further abuse or neglect, a court of competent jurisdiction, on petition by the investigators and with good cause being shown, shall issue an order for temporary removal and custody.

(d) The county department of human resources shall make a complete written report of the investigation, together with its recommendations. Such reports may be made available to the appropriate court, the district attorney and the appropriate law enforcement agency upon request. The county department of human resources shall make a written report or case summary, together with services offered and accepted to the state's central registry on forms supplied by the registry for that purpose. (Acts 1975, No. 1124, p. 2213, § 1.)

**§ 26-14-8. Establishment of central registry; confidentiality of records and reports.**

(a) The state department of human resources shall establish a statewide central registry for reports of child abuse and neglect made pursuant to this chapter. The central registry shall contain, but shall not be limited to:

- (1) All information in the written report;
- (2) Record of the final disposition of the report, including services offered and services accepted;

(3) The names and identifying data, dates and circumstances of any persons requesting or receiving information from the registry;

(4) The plan for rehabilitative treatment; and

(5) Any other information which might be helpful in furthering the purposes of this chapter.

(b) The state department of human resources shall establish and enforce reasonable rules and regulations governing the custody, use and preservation of the reports and records of child abuse and neglect. The use of such reports and records shall be limited to the purposes for which they are furnished and by the provisions of law under which they may be furnished. The reports and records of child abuse and neglect shall be confidential, and shall not be used or disclosed for any purposes other than:

(1) To permit their use to prevent or to discover abuse or neglect of children through the information contained therein; or

(2) For investigation of child abuse or neglect by the police or other law enforcement agency; or

(3) For use by a grand jury upon its determination that access to such reports and records is necessary in the conduct of its official business; or

(4) For use by a court where it finds that such information is necessary for the termination of an issue before the court; or

(5) For use by any person engaged in bona fide research who is authorized to have access to such information by the commissioner of the state department of human resources; or

(6) For use by any person authorized by a court to act as a representative for an abused or neglected child who is the subject of a report; or

(7) For use by a physician who has before him a child whom he reasonably suspects may be abused or neglected; or

(8) For use by an attorney or guardian ad litem in representing or defending a child or its parents or guardians in a court proceeding related to abuse or neglect of said child.

(c) Any violation of this provision of confidentiality shall be a misdemeanor and punishable accordingly. (Acts 1975, No. 1124, p. 2213, § 1.)

#### **§ 26-14-9. Immunity from liability for actions under chapter.**

Any person, firm, or corporation or official participating in the making of a report or the removal of a child pursuant to this chapter, or participating in a judicial proceeding resulting therefrom, shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. (Acts 1965, No. 563, p. 1049, § 3; Acts 1975, No. 1124, p. 2213, § 1.)

#### **§ 26-14-10. Doctrine of privileged communications not grounds for exclusion of evidence as to child's injuries.**

The doctrine of privileged communication, with the exception of the attorney-client privilege, shall not be a ground for excluding any evidence regarding a child's injuries or the

cause thereof in any judicial proceeding resulting from a report pursuant to this chapter. (Acts 1965, No. 563, p. 1049, § 4; Acts 1975, No. 1124, p. 2213, § 1).

**§ 26-14-11. Appointment of attorney to represent child.**

In every case involving an abused or neglected child which results in a judicial proceeding, an attorney shall be appointed to represent the child in such proceedings. Such attorney will represent the rights, interests, welfare and well-being of the child, and serve as guardian ad litem for said child. (Acts 1975, No. 1124, p. 2213, § 1.)

**§ 26-14-12. Establishment of regulations by department of human resources.**

The state department of human resources may establish such regulations as may be necessary to implement this chapter and to encourage cooperation with other states in exchanging reports to effect a national registration system. (Acts 1975, No. 1124, p. 2213, § 1).

**§ 26-14-13. Penalty for failure to make required report.**

Any person who knowingly fails to make the report required by this chapter shall be guilty of a misdemeanor and shall be punished by a sentence of not more than six months' imprisonment or a fine of not more than \$500.00. (Acts 1965, No. 563, p. 1049, Section 5, Acts 1975, No. 1124, p. 2213, § 1.)

## **Title 26, Chapter 15, Child Abuse Generally**

### **§ 26-15-1. Short title.**

This chapter shall be known and may be cited as The Alabama Child Abuse Act. (Acts 1977, No. 502, p. 658, § 1).

### **Section 26-15.2. "Responsible person" defined.**

For the purposes of this chapter, wherever used, "responsible person" means a child's natural parent, stepparent, adoptive parent, legal guardian, custodian or any other person who has the permanent or temporary care or custody or responsibility for the supervision of a child. (Acts 1977, No. 502, p. 658, § 2).

### **§ 26-15.3. Torture, willful abuse, etc., of child under 18 years of age by responsible person.**

A responsible person, as defined in § 26-15-2, who shall torture, willfully abuse, cruelly beat or otherwise willfully maltreat any child under the age of 18 years shall, on conviction, be punished by imprisonment in the penitentiary for not less than one year nor more than 10 years. (Acts 1977, No. 502, p. 658, § 3.)

### **§ 26-15-4. Effect of chapter upon existing rights or liabilities, pending prosecutions, etc.**

All proceedings pending and all rights and liabilities existing, acquired or incurred on May 11, 1977 are hereby saved and may be consummated according to the law in force when they are commenced. This chapter shall not be construed to affect any prosecution pending or begun before May 11, 1977. (Acts 1977, No. 502, p. 658, § 5.)

**Title 41, Chapter 22, State Government.**

**ADMINISTRATIVE PROCEDURE.**

**§ 41-22-19. Grant, denial, renewal, etc. of licenses.**

(a) The provisions of this chapter concerning contested cases shall apply to the grant, denial, revocation, suspension, or renewal of a license.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) No revocation, suspension, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by certified mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license.

(d) If the agency finds that danger to the public health, safety, or welfare required emergency suspension of a license and states in writing its reasons for that finding, it may proceed without hearing or upon any abbreviated hearing that it finds practicable to suspend the license. The suspension shall become effective immediately, unless otherwise stated therein. The suspension shall become effective immediately, unless otherwise stated therein. The suspension may be effective for a period of not longer than 120 day and shall not be renewable. An agency shall not suspend the same license for the same or a substantially similar emergency within one calendar year from its first suspension unless the agency clearly establishes that it could not reasonably be foreseen during the initial 120-day period that such emergency would continue or would likely reoccur during the next nine months. When such summary suspension is ordered, a formal suspension or revocation proceeding under subsection (c) of this section shall also be promptly instituted and acted upon. (Acts 1981, No. 81-855, p. 1534, § 19.)

## **Title 22, Chapter 11A, Reporting Notifiable Diseases**

### **§ 22-11A-1. State board of health to designate notifiable diseases and health conditions.**

The state board of health shall designate the diseases and health conditions which are notifiable. The diseases and health conditions so designated by the board of health are declared to be diseases and health conditions of epidemic potential, a threat to the health and welfare of the public, or otherwise of public health importance. The occurrence of cases of notifiable diseases and health conditions shall be reported as provided by the rules adopted by the state board of health. (Acts 1987, No. 87-574, § 1.)

### **§ 22-11A-2. Persons responsible to report diseases; contents of reports; confidential information; person making report immune from liability.**

Each physician, dentist, nurse, medical examiner, hospital administrator, nursing home administrator, laboratory director, school principal, and day care center director shall be responsible to report cases or suspected cases of notifiable diseases and health conditions. The report shall contain such information, and be delivered in such a manner, as may be provided for from time to time by the rules of the state board of health. All medical and statistical information and reports required by this chapter shall be confidential and shall not be subject to the inspection, subpoena, or admission into evidence in any court, except proceedings brought under this chapter to compel the examination, testing, commitment or quarantine of any person or upon the written consent of the patient, or if the patient is a minor, his parent or legal guardian. Any physician or other person making any report required by this chapter or participating in any judicial proceeding resulting therefrom shall, in so doing, be immune from any civil or criminal liability, that might otherwise be incurred or imposed. No provision of this section shall be interpreted to prevent the publication of statistical reports or other summaries provided that said reports or summaries do not identify individual persons. (Acts 1987, No. 87-574, § 2.)

## **Title 38, Chapter 13, Criminal History Checks**

### **Alabama Act 2000-775**

#### **Criminal Background Checks on Persons Responsible for Children, Elderly, and Disabled**

##### **§ 38-13-1 Legislative findings and intent.**

Under the National Child Protection Act of 1993, Public Law 103-209, 42 U. S. C. '5119, et seq., the states are permitted to implement a computerized information system to provide child abuse crime information through the Federal Bureau of Investigation National Criminal History Record Information System. The states may conduct a nationwide criminal history background check for the purpose of determining whether an individual who shall have unsupervised access to children, the elderly, or individuals with disabilities has been convicted of a crime that bears upon the fitness of the individual to provide care to or have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities as defined in this chapter. The Legislature finds that there is an important state interest and it is in the best interest of the children, the elderly, and individuals with disabilities of Alabama to protect them from those persons who may inflict physical or mental injury or abuse, sexual abuse or exploitation, or maltreatment or other mistreatment upon children, the elderly, or individuals with disabilities. Therefore, it is the intent of the Legislature to provide for the implementation of a system that allows the Department of Human Resources, licensed child placing agencies, and child and adult care facilities to ensure that current licensees, license and volunteer applicants, prospective employees, current employees, and volunteers are suitable for employment, to perform volunteer work, or to hold a license, permit, approval, or certification and have not been convicted of a crime that bears upon their fitness to provide care or have responsibility for the safety or well-being of children, the elderly, or individuals with disabilities as defined in this chapter.

##### **§ 38-13-2 Definitions.**

When used in this chapter, the following words shall have the following meanings:

- (1) **ADULT.** An individual 19 years of age and older.
- (2) **ADULT. CARE FACILITY.** A person or entity holding a Department of Human Resources license or approval or certification to provide care, including foster care for adults.
- (3) **APPLICANT.** A person or entity who submits an application for license as a child care or adult care facility to the Department of Human Resources or a child placing agency, or an application for employment or for a volunteer position to a Department of Human Resources licensed child care or adult care facility. With regards to child care and adult care facilities in a home setting, the term includes an adult household member whose residence is in the home. The term also includes an individual who submits an application for a volunteer position or for employment with the Department of Human Resources in a position in which the person has unsupervised access to children, adults, or individuals with disabilities as one of the essential functions of the job. The term also includes an applicant for approval as an adoptive parent of a child or as a foster parent of an adult or child.

(4) CARE. The provision of care, treatment, education, training, instruction, supervision, or recreation to children, adults, or individuals with disabilities.

(5) CARETAKER SETTING. A building, structure, or location, public or private property, or vehicle, utilized for or involved in the providing of care, education, training, instruction, or supervision of children, adults, or individuals with disabilities or transportation in connection with activity provided by a licensed, approved, or certified child or adult care facility.

(6) CHIEF EXECUTIVE OFFICER. The Commissioner of the Department of Human Resources, the director of a county department of human resources, or the head of an employer covered by this chapter, but not specifically enumerated.

(7) CHILD or CHILDREN. An individual under 19 years of age.

(8) CHILD CARE FACILITY. A person or entity holding a Department of Human Resources license, permit, or approval to provide child care, including foster care, under Chapter 7 of Title 38 of the Code of Alabama 1975. The term excludes exempt child care facilities.

(9) CHILD PLACING AGENCY. A person or entity licensed by the Department of Human Resources under Chapter 7 of Title 38 of the Code of Alabama 1975, issuing approvals to foster family homes and adoptive homes.

(10) CONVICTION. A determination of guilt as the result of a plea, including a plea of nolo contendere, or a trial.

(11) CRIMINAL HISTORY BACKGROUND INFORMATION CHECK. The review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation and the Alabama Department of Public Safety involving an arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information as defined by 42 U. S. C. '5119, the National Child Protection Act of 1993, conviction record information, fingerprint cards, correctional data and release information, and identifiable descriptions and notations of convictions. Criminal history background information shall not include any analytical records or investigative reports that contain intelligence information or criminal investigation information.

(12) CURRENT. An individual who is presently employed, licensed or approved, or working as a volunteer on November 1, 2000.

(13) DAILY LIVING TASKS. Activities of daily living, including walking, working, learning, grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, transportation, managing money, maintaining a residence, writing, and using telephones, computers, and other automated communication devices.

(14) ELDERLY. An individual 65 years of age or older.

(15) EMPLOYEE. An individual currently in the service of an employer for compensation, full-time or part-time, and employed by contract or at will, in which the employer has the authority to control the person in the material details of how work shall be performed and when compensation shall be provided.

(16) EMPLOYER. An individual, person, group of persons, association, partnership, corporation, limited liability company or partnership, business, or other entity which hires employees, has volunteers, or contracts with others to provide personnel to work with or provide care to children, adults, or individuals with disabilities in a caretaker setting.

(17) ESSENTIAL FUNCTIONS. The fundamental, not merely marginal, job duties of the employment as determined by a written job description or the judgement of the employer.

(18) **EXEMPT CARE FACILITY.** A person or entity exempt by law from licensure by the Department of Human Resources or a child placing agency, including church day care, child centers, or elder centers.

(19) **INDIVIDUAL.** A natural person.

(20) **INDIVIDUAL WITH DISABILITIES.** A person with a mental or physical impairment who requires assistance to perform one or more daily living tasks.

(21) **LAW ENFORCEMENT.** The sheriff's department of a county or the police department of a municipality.

(22) **LICENSE.** A license, permit, certification, approval, registration, or other form of permission required by law by whatever designation for a child care facility, adult care facility, child placing agency, foster parent or foster home, adoptive parent or adoptive home, or any other person or entity in which an individual has unsupervised access to children, the elderly, or individuals with disabilities.

(23) **LICENSED SOCIAL WORKER.** A social worker licensed by the Alabama State Board of Social Work Examiners to conduct family home studies and psychosocial assessments in adoptive or custody cases by court order or for treatment not otherwise required to conduct a criminal history check.

(24) **LICENSEE.** Holder of a license or approval and an adult household member whose residence is in the home in regards to child care and adult care facilities in a home setting.

(25) **PERSON or ENTITY.** A natural person, sometimes referred to as an individual, an owner or operator of any adult care facility, child care facility, child placing agency, exempt child care facility, or licensee, whether an individual, corporation, limited liability company or partnership, partnership, association, or other legal entity or group, and a board member, an officer, member or partner of an entity who has direct contact with children, the elderly, or individuals with disabilities in care.

(26) **REASONABLE SUSPICION.** Belief by a prudent person that reasonable articulable grounds exist to suspect that the employee's past or present behavior should be reviewed to determine if such behavior or conduct bears upon the individual's fitness to teach or supervise or have responsibility for the safety and well-being of children, the elderly, or persons with disabilities as defined in this chapter.

(27) **REPORT.** A written statement of criminal history background information.

(28) **RESIDENCE.** Place of abode, domicile, or dwelling with intention to remain permanently and continuously or for an indefinite or uncertain length of time.

(29) **SEX CRIME.** Includes the following:

a. Enticing a child to enter a vehicle, room, house, office, or any other place for immoral purposes, as proscribed by Section 13A-6-69 of the Code of Alabama 1975.

b. Incest, when the offender is an adult and the victim is a minor, as proscribed by Section 13A-13-3 of the Code of Alabama 1975.

c. Kidnapping of a minor, except by a parent, in the first or second degree, as proscribed by Section 13A-6-43 or Section 13A-6-44 of the Code of Alabama 1975.

d. Promoting prostitution in the first or second degree, as proscribed by Section 13A-12-111 or Section 13A-12-112 of the Code of Alabama 1975.

e. Rape in the first or second degree, as proscribed by Section 13A-6-61 or Section 13A-6-62 of the Code of Alabama 1975.

f. Sexual misconduct, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.

- g. Sexual torture, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.
- h. Sexual abuse in the first or second degree, as proscribed by Section 13A-6-66 or Section 13A-6-67 of the Code of Alabama 1975.
- i. Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or Section 13A-6-64 of the Code of Alabama 1975.
- j. Soliciting a child by computer for the purposes of committing a sexual act and transmitting obscene material to a child by computer as proscribed by Sections 13A-6-110 and 13A-6-111 of the Code of Alabama 1975.
- k. Violation of the Alabama Child Pornography Act, as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197 of the Code of Alabama 1975.
- l. Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs a. to k., inclusive.
- m. A crime listed in the Community Notification Act, Chapter 20 of Title 15 of the Code of Alabama 1975.
- n. Conviction for a violation or attempted violation of an offense committed outside the State of Alabama or under federal law is a sex crime or any other crime if the offense would be a crime in Alabama.

(30) **SUITABILITY CRITERIA.**

- a. Convictions for any of the following crimes shall make an individual unsuitable for employment, volunteer work, approval, or licensure:
  - 1. Murder, manslaughter, or criminally negligent homicide.
  - 2. A sex crime.
  - 3. A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities.
  - 4. A crime committed against a child.
  - 5. A crime involving the sale or distribution of a controlled substance.
  - 6. Robbery.
  - 7. A crime or offense committed in another state or under federal law which would constitute any of the above crimes in this state.
- b. Conviction for any crime listed in the Adoption and Safe Families Act, 42 U. S. C. '671(g)(20), shall disqualify a person from being approved or continuing to be approved as a foster parent or adoptive parent and a convicted person shall be deemed unsuitable for employment, volunteer work, approval, or licensure as a foster parent or adoptive parent.
- c. The Department of Human Resources may set other disqualifying convictions by rule under the Administrative Procedure Act, Section 41-22-1 of the Code of Alabama 1975, et seq., for Department of Human Resources licensed child or adult care facilities.

(31) **SUITABILITY DETERMINATION.** A decision that an individual is or is not suitable for employment, volunteer work, or licensure based upon the existence of a prohibited criminal conviction.

(32) **UNSUPERVISED ACCESS TO A CHILD OR CHILDREN, THE ELDERLY, OR AN INDIVIDUAL WITH DISABILITIES.** Contacts, interviews, questions, examinations, interaction, or communications outside the presence, supervision, and control of someone other than a child or elderly or disabled individual in care during the provision of care, education, training, instruction, supervision, or other employment or license related activities.

(33) VOLUNTEER. An individual who provides services without an express or implied promise of compensation, but shall not include the parent, family member, legal custodian, or legal guardian of a child, the elderly, or disabled individual in care.

(34) WRITTEN CONSENT. A signed statement by the applicant or employee containing all of the following:

a. The name, address, date of birth, race, gender, and Social Security number appearing on a valid identification document as defined in subsection (d) of 18 U. S. C. '1028. If the applicant does not have a Social Security number because of sincerely held personal beliefs, the Social Security number shall not be required and the Department of Human Resources and the Department of Public Safety shall provide an alternative means of identification and procedure.

b. Notice to the applicant or employee of the right to obtain a copy of the background check report, challenge the accuracy and completeness of any information contained in the report, and to obtain a prompt determination as to the validity of a challenge.

c. Name, address, and telephone number of the employer or licensing entity for which the criminal history information is being sought.

d. Release of the criminal history report to the Department of Human Resources.

**§ 38-13-3. Criminal history background information check required for certain individuals.**

(a) On November 1, 2000, every employer, child care facility, adult care facility, the Department of Human Resources, and child placing agency shall request the Department of Public Safety to conduct a criminal history background information check for the following:

(1) An employment applicant, employee or volunteer of an employer, child care facility, adult care facility, or child placing agency.

(2) A current foster parent for a child or adult or adult household member of a foster family or applicant and an adult household member of a foster family seeking approval to operate as a foster parent or foster family home for a child placing agency or the Department of Human Resources. No criminal history background information check shall be conducted under this chapter on a current foster parent or household member of a foster family if a Federal Bureau of Investigation and Alabama Department of Public Safety criminal history background information check has already been conducted under other law. Subsequent convictions of foster parents, or convictions entered into the system subsequent to the initial report, shall be sent by the Department of Public Safety to the Department of Human Resources as provided in this chapter.

(3) An applicant in a position in the Department of Human Resources which requires unsupervised access to children, the elderly, or individuals with disabilities as one of the essential functions of the job. No current employee of the Department of Human Resources shall be subjected to a criminal history background information check except upon reasonable suspicion. Criminal history background checks shall be required for prospective and current personnel under contract with the Department of Human Resources or working with another entity under contract with the Department of Human Resources, students, mentors, and volunteers in positions requiring unsupervised access to children, the elderly, or persons with

disabilities as one of the essential functions of the job. The Department of Human Resources shall pay any fees related to checks required pursuant to this subdivision.

(4) A current licensee or applicant for a license through the Department of Human Resources to operate a child care or adult care facility.

(5) A parent applicant for a child adoptive placement through the Department of Human Resources or child placing agency and any Department of Human Resources or child placing agency approved adoptive parent prior to entry of a final decree of adoption. No criminal history background information check shall be conducted under this chapter on a current adoptive parent or household member of an adoptive family if a Federal Bureau of Investigation and Alabama Department of Public Safety criminal history background information check has already been conducted under other law. Subsequent convictions of adoptive parents, or convictions entered into the system subsequent to the initial report, shall be sent by the Department of Public Safety to the Department of Human Resources as elsewhere provided in this chapter.

(b) An employer, child care facility, adult care facility, the Department of Human Resources, or a child placing agency may only request a criminal history background information check by its chief executive officer, or his or her designee authorized in writing and notarized, and law enforcement shall render assistance, including assistance in obtaining fingerprints required for submission of a request to the Department of Public Safety.

(c) Every employee, volunteer or applicant, for employment or a volunteer position, licensee, Department of Human Resources adoptive parent applicant or approved adoptive parent, or applicant for a license to the Department of Human Resources to operate a child care or adult care facility shall submit two sets of fingerprints and sign a written consent to obtain the criminal history background information. Fingerprints shall not be required when a disability prevents a person from being fingerprinted. Disabilities preventing fingerprinting include the loss of both hands, severe scarring of all fingers, closed paralytic hands, and similar disabilities. In cases involving disability, a written consent to obtain available criminal history background information by name only shall be obtained. No one who fails or refuses to give written consent or submit fingerprints necessary to obtain criminal history background information may be employed, allowed to perform volunteer or other work, approved or issued a license, or allowed to retain a license or approval by the Department of Human Resources, an employer, child care facility, adult care facility, or child placing agency.

(d) Child care facilities or adult care facilities exempt from Department of Human Resources licensing shall not be required to comply with this chapter, but may voluntarily collect and forward two complete acceptable sets of fingerprints, the written consent, and nonrefundable fee from applicants or employees to the Department of Public Safety to request a criminal history background information check which shall be processed pursuant to this chapter. Licensed social workers conducting home studies may also request a criminal history background check which shall be processed pursuant to this chapter. Provided, however, if a license-exempt child care facility operated as part of a church ministry or religious school does not choose to comply with this chapter on a voluntary basis, then the employee or prospective employee of the child care facility shall request a criminal history background check, and the request shall be processed in the same manner as for other employees or applicants under the provisions of this chapter. The Department of Human Resources shall, prior to the disbursement of any subsidized child care funds, require all employees and applicants of legally operating child care facilities to submit verification of the application for a criminal history background check and the results

thereof when obtained. Upon reasonable suspicion that the individual has a criminal conviction or has not had a criminal history background check conducted, the Department of Human Resources shall have the right to require employees of license-exempt facilities to submit each application for a criminal history background check and the results thereof when obtained.

**§ 38-13-4. Mandatory criminal history notice; suitability determinations; checks on subsequent activity.**

(a) Every employer, child care facility, adult care facility, the Department of Human Resources, and child placing agency required to obtain a criminal history background information check pursuant to this chapter shall obtain, prior to or upon the date of employment, or issuance of a license or approval or renewal thereof, and maintain in the agency or personnel file, a request with written consent for the criminal history background information check and a statement signed by the applicant, volunteer, or employee indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. The statement shall include a notice and questionnaire the same as or similar to the following:

"MANDATORY CRIMINAL HISTORY CHECK NOTICE: Alabama law requires that a criminal history background information check be conducted on all persons who hold a license or work in a Department of Human Resources licensed child care or adult care facility, a foster or adoptive home approved by the Department of Human Resources, or a licensed child placing agency, including all officers and agents of the entity. You are required to provide full, complete, and accurate information on your criminal conviction history upon application for a license or employment. This information shall be used to determine your suitability to provide care to children, the elderly, or disabled individuals. Unless a criminal history background information check report and suitability determination have previously been obtained, you must complete a written request and consent for a criminal history background information check with fingerprints at the time of application for employment. Refusal to complete these documents or providing false information shall result in refusal of employment, approval, or licensure. The term conviction includes a determination of guilt by a trial, by a plea of guilty, or a plea of nolo contendere. You are required to notify your employer, licensing agency, or entity where you are performing volunteer work of any criminal conviction occurring subsequent to the date of completion of this notice. Any individual determined to have submitted false information shall be referred to the district attorney or law enforcement for investigation and possible prosecution. An individual who intentionally falsifies or provides any misleading information on the statement is guilty of a Class A misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000) and imprisonment for not more than one year.

"Convictions for any of the following crimes shall make an individual unsuitable for employment, volunteer work, approval, or licensure:

- "1. Murder, manslaughter, or criminally negligent homicide.
- "2. A sex crime.
- "3. A crime that involves the physical or mental injury or maltreatment of a child, the elderly, or an individual with disabilities.

"4. A crime committed against a child.

"5. A crime involving the sale or distribution of a controlled substance.

"A sex crime includes the following:

"a. Enticing a child to enter a vehicle, room, house, office, or any other space for immoral purposes, as proscribed by Section 13A-6-69 of the Code of Alabama 1975.

"b. Incest, when the offender is an adult and the victim is a minor, as proscribed by Section 13A-13-3 of the Code of Alabama 1975.

"c. Kidnapping of a minor, except by a parent, in the first or second degree, as proscribed by Section 13A-6-43 or Section 13A-6-44 of the Code of Alabama 1975.

"d. Promoting prostitution in the first or second degree, as proscribed by Section 13A-12-111 or Section 13A-12-112 of the Code of Alabama 1975.

"e. Rape in the first or second degree, as proscribed by Section 13A-6-61 or Section 13A-6-62 of the Code of Alabama 1975.

"f. Sexual misconduct, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.

"g. Sexual torture, as proscribed by Section 13A-6-65 of the Code of Alabama 1975.

"h. Sexual abuse in the first or second degree, as proscribed by Section 13A-6-66 or Section 13A-6-67 of the Code of Alabama 1975.

"i. Sodomy in the first or second degree, as proscribed by Section 13A-6-63 or Section 13A-6-64 of the Code of Alabama 1975.

"j. Soliciting a child by computer for the purposes of committing a sexual act and transmittal of obscene material to a child by computer as proscribed by Sections 13A-6-110 and 13A-6-111 of the Code of Alabama 1975.

"k. Violation of the Alabama Child Pornography Act, as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197 of the Code of Alabama 1975.

"l. Any solicitation, attempt, or conspiracy to commit any of the offenses listed in paragraphs a. to k., inclusive.

"m. A crime listed in the Community Notification Act, Chapter 20 of Title 15 of the Code of Alabama 1975.

"6. Conviction for a crime listed in the federal Adoption and Safe Families Act as prohibiting a person from being a foster parent or adoptive parent shall be deemed to make the convicted person unsuitable for employment, volunteer work, approval, or licensure as a foster parent or adoptive parent.

"7. Conviction for a violation or attempted violation of an offense committed outside the State of Alabama or under federal law is a sex crime or any other crime listed in this notice if the offense would be a crime listed in this notice in Alabama.

**"CRIMINAL HISTORY STATEMENT**

"Have you ever had a suitability determination made by the Department of Human Resources in connection with a previous criminal history information background check? Yes (\_\_\_) No (\_\_\_).

"Have you ever been convicted of a crime? Yes (\_\_\_) No (\_\_\_). If yes, state the date, crime, location, punishment imposed, and whether the victim was a child or an elderly or disabled individual.

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"Date \_\_\_\_\_ Signature \_\_\_\_\_."

(b) An individual who fails or refuses to provide a statement shall not be employed, allowed to work or volunteer, or issued a license or approval as defined in this chapter. Upon receipt of a signed criminal history statement which does not indicate conviction for a crime prohibiting employment under the suitability criteria, an employer, including the Department of

Human Resources, may employ an applicant or allow a volunteer or contract provider to work provisionally pending receipt of a suitability determination from the Department of Human Resources.

(c) No later than the five business days after employment or a reasonable time after completion of application for a license or approval, an employer, the Department of Human Resources, or child placing agency shall mail or deliver a request for a criminal history background information check to the Department of Public Safety accompanied by the following:

(1) Two complete sets of fingerprints, properly executed by a law enforcement agency or an individual properly trained in fingerprinting techniques.

(2) Written consent from the applicant, employee, or volunteer for the release of the criminal history background information to the Department of Human Resources.

(3) The fee.

(d) Upon receipt of a suitability determination from the Department of Human Resources that a person or entity is suitable for employment, volunteer work, licensure, or approval based on the criminal history background information check, an employer, a child care facility, adult care facility, a child placing agency, or the Department of Human Resources may make its own determination of employment, licensure, or approval. This chapter shall not create any right to employment, work, approval, or licensure. Upon receipt of a determination from the Department of Human Resources that an individual is unsuitable for employment, licensure, approval, or volunteer work, an employer, the child care facility, adult care facility, child placing agency, or Department of Human Resources shall terminate the individual from employment or volunteer work or shall not employ or use the individual. Termination of employment may be delayed by the employer to allow the individual to challenge either the accuracy or completeness of the criminal history information background report or the suitability determination made by the Department of Human Resources. The Department of Human Resources or child placing agency shall suspend or revoke a license or approval or deny a license or approval application to an individual receiving an unsuitability determination. As an alternative to termination of employment, the Department of Human Resources may transfer a permanent Merit System employee to an available position for which the employee is qualified where unsupervised access to children, the elderly, or persons with disabilities shall not be an essential function of the job.

(e) If a review of a criminal history background information check or other information received reveals that the person has submitted false information, the employer, child care facility, adult care facility, child placing agency, or Department of Human Resources shall terminate the employee or volunteer. The Department of Human Resources or child placing agency shall revoke the approval or license of a person or entity when the person or entity submits false information in a review of criminal history background information check or other information. The Department of Human Resources shall be notified of the false information and shall refer the case to an appropriate law enforcement agency or district attorney for investigation and prosecution.

(f) Only one criminal history background information check shall be required on an individual regardless of subsequent changes in employment or licensing or approval status. Subsequent criminal history background information checks may be conducted by the employer or licensing or approval entity. The licensing or approval entity shall pay the cost for subsequent criminal history background information checks. If the statement signed by the applicant or employee states that a criminal history background information check has been performed and

suitability determination issued on the individual, the employer or licensing agency may request at the time of application only a suitability determination from the Department of Human Resources on the check previously performed, within five business days of employment, or completion of license or approval application, submitting the same kind of information and consent for the request for suitability determination as required by the written consent for a criminal history background information check.

(g) Upon being notified that an individual has already had a criminal history background information check performed by the Department of Education pursuant to the Alabama Child Protection Act, Chapter 22A of Title 16 of the Code of Alabama 1975, the Department of Human Resources shall request and the Department of Education shall provide criminal history background reports and reports on subsequent convictions, or convictions entered into the system subsequent to the initial report, to the Department of Human Resources without the payment of an additional fee, provided there are no violations of federal laws.

#### **§ 38-13-5. Additional requirements.**

(a) An applicant, licensee, volunteer, or employee, upon request, shall submit the following items:

(1) Two functional, acceptable fingerprint cards, bearing the fingerprints of the individual, properly executed by a law enforcement agency or individual properly trained in fingerprinting techniques.

(2) Written consent authorizing the release of any criminal history background information to the Department of Human Resources.

(3) A written statement signed by the applicant, volunteer, or employee indicating whether he or she has ever been convicted of a crime, and if so, fully disclosing all convictions. The statement shall include a notice and questionnaire in the form required in subsection (a) of Section 38-13-4.

(4) The fee of an applicant.

(b) An applicant, licensee, volunteer, or employee shall notify the prospective or current employer, licensing agency, or entity for whom volunteer work is being performed of any criminal convictions occurring subsequent to the date of completion of the notice in Section 4.

#### **§ 38-13-6. Fees.**

(a) A nonrefundable fee to be paid for the criminal history background information check shall conform to the guidelines promulgated pursuant to 42 U. S. C. '5119, the National Child Protection Act of 1993, and state law.

(b) The Department of Public Safety may charge a fee in the amount prescribed in Chapter 2, commencing with Section 32-2-61, of Title 32 of the Code of Alabama 1975, for the cost of processing the request. The Department of Public Safety shall charge no larger fee for requests than charged for requests received from those entities. The fee charged for criminal history background information checks shall not exceed the statutory and regulatory amounts set under existing guidelines and no additional administrative fees, except for the cost of mailings,

shall be charged which would increase the cost of the criminal history background information check.

(c) An applicant for employment shall be responsible for the cost of the criminal history background information check. An applicant shall not be required to pay the fee until the prospective employing entity is prepared to consider the applicant and request a criminal history background information check. The chief executive officer of the prospective employing entity may pay the fee of an applicant.

(d) For any volunteer or applicant for a volunteer position, the fee for the criminal history background information check may be paid by the volunteer or by the entity requesting volunteer work.

(e) An applicant for a license or approval shall pay the fee for the criminal history background information check at the time the application for the license is submitted; except as provided herein, the Department of Human Resources may pay the fee for adult and child foster care applicants and child adoption applicants.

(f) For an employing entity that requests a criminal history background information check on a current employee, the employing entity shall pay the fee for the criminal history background information check. The employee may be required to pay the fee or a portion thereof provided there shall be no violation of federal minimum wage requirements.

(g) A fee paid for which a criminal history background information check is not performed shall be refunded to the applicant, the individual, or the entity requesting the criminal history background information check.

#### **§ 38-13-7. Duties of the Department of Public Safety and the Department of Human Resources; review of determinations.**

(a) Criminal history background information checks shall be performed by the Department of Public Safety upon request by an employer, child care facility, adult care facility, or child placing agency authorized to make a request, or the Department of Human Resources. The Department of Public Safety shall provide a criminal history background check within a reasonable time of the receipt of the request. National criminal history background checks shall be requested by the Department of Public Safety from the Federal Bureau of Investigation within a reasonable time of the request. The Department of Public Safety, upon receipt of the criminal history background report from the Federal Bureau of Investigation, shall forward the report to the Department of Human Resources within a reasonable period.

(b) Criminal history background information reports shall be sent directly from the Department of Public Safety to the Department of Human Resources within a reasonable time from the receipt of the report from the Federal Bureau of Investigation. A copy of a criminal history report from the Department of Public Safety and Federal Bureau of Investigation shall be sent by the Department of Human Resources to the applicant or employee by certified mail or personal service. The Department of Human Resources shall review the criminal history record information report and determine whether the applicant, employee, or volunteer meets the suitability criteria for employment or licensure based on the criminal history background information check. The Department of Human Resources shall issue a written suitability determination to the applicant or employee and to the licensing entity or chief executive officer of the child care facility or adult care facility requesting the criminal history background

information check. The Department of Public Safety shall notify the Department of Human Resources of a subsequent conviction, or convictions entered into the automated system subsequent to the initial report, for a crime committed on an individual for whom a criminal history background information report has been sent. The Department of Human Resources shall include the conviction in an amended or subsequent suitability determination.

(c) A person may contest the accuracy or completeness of the Alabama criminal history background information check pertaining to him or her with the Department of Public Safety according to procedures established by that agency. The person or his or her legal counsel may review at the Department of Human Resources a copy of the Alabama criminal history background information report from the Department of Public Safety. If, upon review by the Department of Public Safety, the information is determined to be incorrect or incomplete, the information shall be corrected appropriately, and the Department of Human Resources shall be provided with the corrected information.

(d) The Department of Human Resources shall issue a suitability determination and maintain a confidential file on individuals for whom a criminal history background information report or report updates have been received. The Department of Human Resources may issue a suitability determination based upon the criminal history report on file without the requirement of a new criminal history background information check. If no report or if only an incomplete criminal history report can be located in the files of the Department of Human Resources, the individual shall be required to submit to a new criminal history background information check.

(e) Within 30 days of the date of notification, an individual determined unsuitable for approval, licensure, employment, or volunteer work by the Department of Human Resources based upon a disqualifying conviction may request in writing reversal of the determination of unsuitability if the conviction is not for a sex crime or a crime committed against a child, an elderly individual, or an individual with disabilities. An individual with a conviction excluded by federal law from being approved as a foster or adoptive parent, as any other child care or adult care provider, or volunteer may not be considered for reinstatement. In the case of a felony conviction, 10 years shall have lapsed since the sentence was served or the probation or parole ended, whichever is later, with no subsequent conviction. In the case of a misdemeanor conviction, five years shall have lapsed since the sentence was served, or the probation or parole ended, whichever is later, with no subsequent conviction. The individual shall affirmatively demonstrate to the Department of Human Resources successful rehabilitation by clear and convincing evidence. In determining whether an individual has affirmatively demonstrated successful rehabilitation, all of the following shall be considered:

- (1) Nature and responsibility of the position which the convicted person would hold or has held.
- (2) Nature and seriousness of the offense committed.
- (3) Circumstances under which the offense occurred.
- (4) Date of the offense.
- (5) Age of the person when the offense was committed.
- (6) Whether the offense was an isolated or repeated incident.
- (7) Social conditions which may have contributed to the offense.
- (8) An available probation or parole record, report, or recommendation.
- (9) Evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational

schooling, successful business or employment history, and the recommendation of his or her supervisors.

(f) The Department of Human Resources and the Department of Public Safety may adopt rules and regulations to implement the procedures and requirements of this chapter pursuant to the Administrative Procedure Act, Section 41-22-1, et seq.

### **§ 38-13-8. Confidentiality and disclosure of reports.**

(a) All reports of criminal history background information received by the Department of Human Resources from the Department of Public Safety shall be confidential and marked confidential with no further disclosure and shall not be made available for public inspection.

(b) All criminal history background information reports shall be excluded from any requirement of public disclosure as a public record.

(c) Without additional public disclosure, the following release of the criminal history background information report shall not be construed to violate this section:

(1) Showing the report to the applicant or current employee.

(2) Release of the report to a court of competent jurisdiction in the event of litigation brought by the applicant or employee.

(3) Release of the report to a court of competent jurisdiction upon a finding that the information is material to the issues of the case before the court.

(4) Use of the report in preparation, investigation, and presentation during a criminal prosecution, or in any administrative proceeding involving the challenge to a suitability determination, or revocation of a license or denial of an application for a license by the Department of Human Resources.

(5) Release to anyone with the written consent of the employee or volunteer.

(d) A person having access to criminal history background information reports and releasing the reports pursuant to this chapter shall be required to maintain a register consistent with the National Child Protection Act of 1993, Public Law 103-209, 42 U. S. C. '5119, et seq.

(e) Nothing in this chapter shall be construed to prohibit the distribution of employment or licensing status information to an interested party.

### **§ 38-13-9. Violations.**

(a) A person convicted of the following actions under this chapter shall be guilty of a Class A misdemeanor:

(1) Violating the confidentiality of records.

(2) Violating lawfully adopted policies pursuant to this chapter.

(3) Knowingly, willfully, and intentionally making or transmitting a false or misleading report or information concerning past convictions as required under this chapter.

(4) Knowingly, willfully, and intentionally failing to report subsequent convictions as required by this chapter.

(b) A person who knowingly submits false information concerning past convictions on an application for employment or other form required for disclosure of criminal convictions

may be subject to loss of employment and to the loss of any license issued by the Department of Human Resources or child placing agency.

**§ 38-13-10. No cause of action established; immunity not waived.**

Nothing in this chapter is intended to create or establish new causes of action in any court. Nothing in this chapter shall be construed as a waiver of any sovereign or qualified immunity.

**§ 38-13-11. Disposition of fees.**

All fees received by the Department of Public Safety for criminal history background information checks conducted pursuant to this chapter shall be deposited to the Public Safety Automated Fingerprint Identification System Fund, to be appropriated to and expended by the Department of Public Safety in accordance with Section 32-2-61.

**§ 38-13-12. Construction.**

This chapter is supplementary and shall be construed in pari materia with other laws; provided, however, that to the extent that this chapter specifically conflicts with other laws pertaining to criminal history background information checks, this law shall take precedence. Nothing contained in this chapter shall be construed to diminish, reduce, or conflict with the authority of the Department of Human Resources to interpret and apply appropriate federal and state laws governing that agency and its programs.