



CHILD CARE LAW CENTER

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OVERVIEW OF PRESCHOOL LICENSING IN CALIFORNIA

Close to half of all three and four year old children in California are cared for outside of the home on a regular basis.¹ The time children spend in preschool settings can vary from several hours to over fifty hours per week, although typical preschools operate between three and nine hours a day. State law requires most of these preschool settings to be licensed by the state Department of Social Services (DSS), though certain types of programs are exempt. The intent behind licensing programs is to ensure minimum health and safety standards are maintained.

California licenses over 12,200 child care centers and 39,000 family child care homes with a combined capacity of over one million children.

Total number of licensed facilities:	54,241
Number of child care centers:	12,640
Total licensed capacity:	1,150,311
Center licensed capacity:	768,562
Estimated caseload ratio: ²	238:1

WHY IS LICENSING IMPORTANT?

Licensing is intended to provide the basic, core health and safety protections for children in out-of-home care. While some programs, like Head Start and state preschool, have other requirements and monitoring mechanisms, for many programs, DSS is the only government agency making visits and providing any oversight, so it plays a crucial role in protecting children. Licensing remains vulnerable to budget cuts and legislation carving out loopholes or adding unnecessary barriers to obtaining a license. As research continues to document the benefits of high quality early care and education, California and other states exploring ways to improve quality will need to integrate such efforts within the existing licensing structure so that basic health and safety concerns are met.

WHO MONITORS CHILD CARE IN CALIFORNIA?

The state's Health and Safety Code authorizes the Department of Social Services (DSS) to regulate public and private child care settings.³ The DSS Community Care Licensing Division (CCL) developed more extensive regulations found in Title 22 of the California Code of Regulations detailing the health and safety requirements providers must meet.

¹ Lopez, Elias S. and Patricia L. de Cos, *Preschool and Child Care Enrollment in California*, Senate Research Bureau, p. 12 (2004).

² Statistics from California Department of Social Services, Community Care Licensing website at: <http://ccld.ca.gov/res/pdf/countylist.pdf>. Estimated ratio from 2005 Child Care Licensing Study, National Association for Regulatory Administration and National Child Care Information and Technical Assistance Center, 2006.

³ The statutory requirements begin at California Health and Safety Code section 1596.60.

While only statutes and regulations are legally binding, additional information is available to providers and the public. CCL maintains a manual for Licensing Program Analysts and staff that provides further explanations, interpretations and procedures, called the Evaluator Manual.⁴ In addition, DSS publishes a quarterly update, occasional All Licensee Letters explaining implementation issues and offering clarifications, and educational materials such as guides for provider self-assessment.⁵

WHO NEEDS A LICENSE TO CARE FOR CHILDREN?

Any non-relative who cares for children out of the child's home needs a license unless they meet one of the exceptions below. The types of licenses issued are:

- Small family child care home for providers caring for six or, with certain age groupings, up to eight children in the provider's own home;⁶
- Large family child care home for providers caring for twelve or, with certain age groupings, up to fourteen children in the provider's own home;⁷ and
- Child care center for any settings that is not the provider's own home. There are separate license categories for infant care centers, school-age centers and centers for mildly ill children.⁸

WHO DOESN'T NEED A LICENSE?

Some programs serving preschool-age children may not need a license to operate.⁹ The most common examples include:

- Certain parent co-ops with twelve or fewer children in attendance at any time.
- A family child care home caring for the children of only one family (in addition to the provider's own children).
- A public recreation program for children not yet enrolled in school but over four years of age if it operates for less than 16 hours a week or for a total of less than 12 weeks a year.

WHAT DOES A PROVIDER NEED TO DO TO GET A LICENSE?

Some of the key requirements a family child care home provider must meet in order to receive and maintain a license include:

- Obtaining a criminal records and child abuse clearance for everyone living in the home who is 18 years & older, whether or not they are there when care is provided;
- Have a TB test clearance;
- Completing 15 hours of training including: CPR, first aid, infection control and communicable disease. The CPR training must be renewed annually; the first aid training renewed every three years.
- Have the home inspected by DSS for general health & safety requirements:

⁴ The Evaluator Manual can be accessed at: <http://cclld.ca.gov/PG395.htm>. The entire manual is several hundred pages long and includes information for other community care license types.

⁵ These can be found here: <http://cclld.ca.gov/PG403.htm>, or under the tab "Tools/Resources" on the Child Care Licensing website: <http://cclld.ca.gov/PG411.htm>.

⁶ Cal. Health & Safety Code § 1596.78

⁷ Id.

⁸ Cal. Health & Safety Code § 1596.76.

⁹ Cal. Health & Safety Code § 1596.792

- Maintaining cleanliness and keep dangerous items out of children’s reach;
- Securing areas that are dangerous (such as pools) or are identified as not part of the child care;
- Record-keeping and informing parents of their rights; and
- Paying an annual fee.

Child Care Centers must meet more stringent guidelines than family childcare providers, including (but are not limited to):

- Indoor and outdoor space requirements;
- Educational & training requirements for directors and staff;
- Child to staff ratios that vary depending on the age of the children;
- A fire clearance and the development of an emergency plan;
- Minimum nutrition requirements for meals and snacks;
- TB test clearances for all staff;
- The presence of an adult with CPR and first aid training at all times;
- Inspection by DSS for general health and safety requirements;
- Record-keeping, informing parents of their rights; and
- Pay an annual fee.

Title 22 contains additional requirements for both family child care and centers.

State preschool programs, as well as other state-contracted programs, must meet additional requirements as a condition of receiving state funding. These Title 5 centers are so-named because the additional requirements are found in California’s Education Code, or Title 5.¹⁰ Key Title 5 requirements include stricter child to adult ratios, as well as extensive director, teacher and staff qualifications.

HOW DOES THE STATE MONITOR PROGRAMS?

CCL uses several different tools and strategies to ensure compliance with Title 22 regulations.

- Pre-licensing inspection.
- Monitoring programs on probation. If a licensee has had violations in the past, DSS can put the program on probation and visit yearly or as frequently as needed to ensure violations are not ongoing.
- Investigating serious incident reports. Licensees are required to report injuries to children requiring medical treatment as well as other unusual events.
- Responding to complaints. Anyone – parents, teachers, neighbors – may make an anonymous complaint to CCL. If determined not to be frivolous, CCL will investigate by visiting the site within 10 days. Additional investigation may be necessary to determine whether a violation has occurred.
- Once licensed, at least one unannounced random visit every five years. Due to state budget cuts, the random visits have declined in frequency over the past few years to the

¹⁰ For information comparing requirements, please see Analysis of Title 5 and Title 22 Regulations Affecting Preschool Programs, Child Care Law Center.

current frequency. This, as well as the average caseload per inspector, puts California near the bottom of national rankings. The license does not expire, though a yearly fee is required.

HOW DOES THE STATE DEAL WITH PROBLEMS OR VIOLATIONS?

CCL must investigate and document any observed violation and is required to issue a written report identifying any regulation that has been violated.¹¹ Providers have an opportunity to protest the finding. They also have an opportunity to develop a compliance plan. Failure to comply may result in fines and eventually probation, suspension or revocation of the license. Serious violations (often called “Type A”) require immediate resolution and can lead more quickly to the loss of a license.¹²

WHAT RECENT CHANGES HAVE OCCURRED?

Recent changes to CCL include a general decrease in the number of random visits made. Providers have had to post additional information about licensing visits and provide copies of CCL reports to parents.

WHAT ARE SOME KEY ISSUES IN LICENSING PRESCHOOLS?

- Capacity. CCL continues to be underfunded, with monitors carrying high caseloads and infrequent unannounced random visits. In addition, training and support resources are scarce, leaving providers unable to access help in preventing licensing violations.
- Complying with both Title 22 and Title 5 staffing requirements. A preschool program with a state contract required to comply with both CDE (Title 5) regulations as well as CCL (Title 22) regulations has two separate child-to-adult ratios to meet. Title 5 is more demanding, but only applies for the contracted portion of a program; meeting staff requirements when Title 5 applies for a portion of the day or in a portion of the classrooms is a challenge.
- Relationship to quality improvement efforts. As the state looks for ways to improve quality, such as the Early Learning Quality Improvement System Advisory Committee, licensing will play an important but as yet undefined role as a monitor of health and safety.

WHERE CAN I FIND OUT MORE?

Child Care Law Center

The Child Care Law Center posts current information about licensing and other legal and policy issues at www.childcarelaw.org. In the “Resources” section, there are publications and fact sheets available, including manuals on licensing for centers and family child care homes.

Licensing Laws and Regulation

¹¹ 22 Cal. Code of Regulations § 101193(b).

¹² Type A violations include lack of a criminal record clearance, over capacity, fire safety concerns, violation of a child’s rights, lack of supervision and dangerous building and grounds. DSS Evaluator Manual § 3-4200 (05RM-11).

The Health and Safety Code can be found at <http://www.leginfo.ca.gov/calaw.htm> by clicking the box next to Health and Safety and then “Search.” When the table of contents appears, scroll down to Chapter 3.4, the California Child Day Care Act, and beginning at section 1596.70. Chapters 3.35 (Child Care Registration), 3.5 (Day Care Centers), 3.6 (Family Day Care Homes), and 3.65 (Employer-Sponsored Child Care Centers are also essential.

Title 22 Regulations apply to all community care facilities regulated by CCL except where specifically exempted and are available at www.dss.cahwnet.gov/ord/PG240.htm.

Community Care Licensing

- The Community Care Licensing website is www.cclcd.ca.gov.
- A list of the addresses for all regional CCL offices is available at <http://www.cclcd.ca.gov/res/pdf/CCListingMaster.pdf>. Four counties (Del Norte, Inyo, Mendocino and Sacramento) administer licensing for Family Child Care Homes in those counties. Contact information is available at <http://www.cclcd.ca.gov/PG504.htm>.
- Licensing forms are on-line at: <http://cclcd.ca.gov/PG402.htm>. Most of these forms start with the prefix “LIC” and are followed by a number. For example, LIC 200A (Application for a Child Care Center License).
- The DSS Licensing Evaluator Manual is available at: <http://cclcd.ca.gov/PG395.htm>
- CCL has developed assessment guide to help providers review program operations. The guides include some of the most common problems documented by LPAs on monitoring visits, but are not a complete list of the regulations. They can be found at <http://cclcd.ca.gov/PG832.htm>.