

**MINIMUM STANDARDS
FOR
RESIDENTIAL CHILD CARE
FACILITIES**

**Child Care Institutions
Group Homes
Maternity Centers
Shelter Care
Adjunct Programs**

**Principles
Regulations
Procedures**

**Prescribed by
STATE OF ALABAMA
DEPARTMENT OF HUMAN RESOURCES
An Affirmative Action/Equal Opportunity Employer**

**Developed 1974
Revised 1977, 1980, 1982, 1989, 2000, 2016, 2018, 2019**

FORWARD

Minimum Standards for the operation of child care institutions and group homes have been revised in accordance with the Child Care Act of 1971 (Title 38, Chapter 7, Code of Alabama 1975), federal Court Orders in reference of the R. C. vs. Petelos case, and the Adoption and Safe Families Act (Public Law 105-89).

Since 1931, the State Board of Public Welfare, (now known as the State Department of Human Resources) has prescribed minimum standards which had been developed by representatives of the field of child care as regulatory measures for the conduct of child care facilities and agencies. Since that time, the standards have been revised periodically to meet the needs of dependent and neglected children in the State.

In 1991 the Department agreed to the entry of the RC Consent Decree which among other things required licensing standards to be revised to be consistent with the decree and address the special needs of children and their families as defined in the R. C. Case. The five (5) goals of the "System of Care" as defined in R. C. are: 1) To protect class members for abuse and neglect; 2) To enable class members to live with their families; and when that cannot be achieved through the provision of services to live near their home; 3) To enable class members to achieve stability and permanency in their living situation; 4) To enable class members to achieve success in school and; 5) To enable class members to become stable, gainfully employed adults. The standards are also designed to ensure that children in foster care placements receive quality services that protect the safety and health of the children as required by the Adoption and Safe Families Act (ASFA). The standards also require that providers allow children in their care to comply with Reasonable and Prudent Parent standards and as such children and youth participate in developmentally appropriate activities.

In developing the current revision of minimum standards, the State Department of Human Resources (SDHR) utilized the expertise of veteran Department staff and sought the advice and assistance of knowledgeable persons outside the Department who are representative of the field of child care. These regulations, now under the title of "Minimum Standards for Residential Child Care Facilities", are applicable to child care institutions, group homes, maternity centers, shelter care homes and adjunct homes.

Sections III through VIII set out the minimum standards which must be met by persons responsible for the care of children and by the child care facilities in order for a license to be issued by the Department. The regulations are in keeping with regional and national trends for the desirable substitute care of children, plus federal court orders.

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I. Principles

The following principles are meant to be guidelines to assure sound child welfare services and are not meant to be regulatory in nature.

A. Principles of Child Care Facilities

While the separation of children from their families may not be necessary in most cases, there are some situations where removal may be the only action determined to be appropriate to ensure safety and offer the needed services to children and their families.

The first responsibility of every child care facility as defined in the Child Care Act is to provide developmental experiences for children within a setting which also affords adequate food, clothing, shelter, safety and education. Additional Federal and State Acts, rules and regulations require that foster parents have the responsibility of operating according to Reasonable and Prudent Parent Standard and allow children in their care to participate in age and developmentally-appropriate activities. An accompanying responsibility is the support and maintenance of family relationships.

A primary function of every residential child care facility shall be to work with children and their families, to help them utilize and expand upon strengths within the family, and to assist in family reunification efforts when that is the goal. Residential child care facilities serving sibling groups should strive to accommodate the children in the same environment, i.e., same cottage, unless it is not in the best interest of the children.

All children should continue to be regarded as members of the family units from which they came. Permanency is the desired goal for all children and therefore reunification with the family should be the first consideration. Children's feelings for their own family must be respected and handled in a manner that will not denigrate either child or parent.

Although the family may be unable to provide twenty-four hour a day care for the child, the family can make a significant continuing contribution to the child's life and emotional stability. In addition, the family retains rights concerning the child, unless those rights have been terminated by a court order.

The type of out of home care selected for each child should be determined by the child's individual needs; such as the child's: 1) age; 2) temperament; 3) culture; 4) physical, mental and emotional condition; 5) patterns of action, reaction and interaction and 6) the child's relationship with significant others in his/her life. The selection should include consideration of the need to build the child's self-reliance and self-esteem. The reasons for placement must be clearly documented in the case record. Established professional principles should always be followed when placing a child so that the trauma felt by the child is addressed.

Support and services must be offered to the child's family while the child is in care. Out-of-home care is viewed as supplemental parenting, in which the child care facility provides only that portion of parental nurture which cannot be supplied by the legal parents or relatives. The type of care selected must recognize and nurture the individuality and the cultural background of the child, as well as provide the basic elements of physical safety and emotional security, and the preservation of the basic rights of the child.

Child Care facilities shall provide children adequate shelter, a balanced, appetizing and adequate diet and comfortable, stylish and properly fitted clothing. Young children need guidance that will encourage their development at an appropriate level. Such guidance may incorporate expectations which are realistic and yet challenge the child to grow, help the child to build stable, trusting relationships with adults, and to assist the child generally in growing physically and emotionally. Children should also be afforded opportunities to participate in age and developmentally appropriate activities and events. Academic education in health habits, human sexual development and function, religion and morals, and for adolescents, an opportunity to select and train for a vocation should be provided by the child care facilities as well as offering experiences in community living, including familiarization with community resources for work, worship, recreation, shopping and socialization.

It is the role of the child care facility to assist children as they mature toward preparing and transitioning to adulthood. Children should live in an environment where they can be supported and respected as an individual and receive guidance and help in setting goals based on the child's own strengths and needs.

B. Principles of Child Care Institutions

Institutional living is especially well adapted for, but is not limited to, the following:

1. Children who have been subjected to repeated separations, rejections, and other deprivations so that they need security and continuity.
2. Children who are distrustful of authority and need an opportunity to learn gradually to trust adults.
3. Children who have not learned to function adequately in social and community living, whose personal habits may be unacceptable in a family or small group setting, or in society.
4. Children whose special needs preclude their forming close relationships with caregivers in a less restrictive environment and who have been so deprived of affection that their special needs cannot be met in a less restrictive environment; and who require a greater continuum of services

provided in such a setting.

5. Children who are a part of a large sibling group and therefore need to be kept together.

Each child care institution is expected to have a well-defined, clearly articulated program which is an integral part of the total service delivery system of its own community. Agencies and child care institutions are expected, through voluntary initiative, to coordinate their efforts, and to keep informed of all programs offering human services in the community in order to provide as broad a range of human services as possible, and to avoid duplication of services. Every agency must provide or secure individualized services as required by the child.

In the child care institution program, the social service department is responsible for individualized planning with the child and the child's family, to represent the child care institution and coordinate all planning of the case. Their expertise is to be used in coordinating the intake process, the development of an individualized plan of care, the overall residence experience and the termination of placement for the child. In addition, they may work with the child's family prior to, during, and after placement, to support the child care worker in implementing the plan of care, to work directly with the child in cases of severe disturbance, and to serve as liaison with other social agencies which may be involved with the child and the child's family.

Child care staff are increasingly expected to perform the major share of "caring" and counseling functions with the child while providing on-going supervision. The child care staff must accept the child as an individual, and create a non-judgmental atmosphere that is sensitive to the needs and feelings of the child. The child care worker has a primary duty to provide assurance, support and help in terms the child can use in his/her efforts to find and establish an identity for himself/herself. Further, the child care worker must accept the family members of the child as they are, acknowledge and honor their strengths, but provide for the child whatever parenting functions the parents or other family members cannot provide.

C. Principles of Group Homes

Group homes are considered an alternative to a family environment. Group home care is typically suited for the child who has an interest and willingness to participate in community living. Children in group care generally will benefit from supervised group living with access to community resources in a semi-structured environment.

Group homes should be located to provide easy access to the community and its resources, including family and extended family contacts, schools, employment and recreation. Because of a group home's location in the community and the small number of children it serves, the staff can have the flexibility to adjust to the broad and changing

needs of children residing in the group home. The group home provides an atmosphere of informality, where a child may share in decision-making concerning the group home program and activities.

Supervision and guidance of children in group care should help develop their individual feelings of self-worth, self-respect and self-esteem. The group home should be able to assist children in familiarizing themselves with community resources and through them, offer opportunities for the children to develop and reach their fullest potential.

D. Principles of Maternity Center Care

A maternity center offers residential care to the minor pregnant girl. The center provides a setting of security and protection, with services to help deal with the planning of the present and future for the pregnant girl and her child.

The function of the center is to provide an environment in which the minor pregnant girl is accepted as an individual with personal rights, where she is free from pressure and stigma, and where she can move through the experience of pregnancy as serenely and as securely as possible.

The center provides living arrangements designed to meet the basic physical needs. On a daily basis, the minor pregnant girl lives closely with others approximately her own age who have similar needs. Maternity center living includes a routine of work, recreation, community contact, and other activities providing experiences and relationships which give emotional support, encouragement, hope, a sense of responsibility, and a sense of personal worth.

The services provided by the center take into account the total life situation of the minor pregnant girl, including medical needs, her relationship with her child's father, and involvement of her family members. The responsibility of the child's father will be taken into account as well. Many girls have experienced unhappy relationships with peers and adults. As a minor pregnant girl, she may be faced with negative attitudes of society, her family and friends and will benefit from advocacy services.

E. Principles of Shelter Care

The intent of shelter care is to serve as a temporary and short-term placement that provides for the immediate safety needs of children. Planning for the child should commence immediately upon his/her reception into the facility to enable the child to be discharged into a more permanent placement. Planning should involve partnership between the child, the child's family, agencies in the community, and court, in accordance with the specifics of the case.

F. Adjunct Programs

An adjunct program is associated with temporary living off the premises of the child

care facility, in a facility operated by the same provider during a season of the year when school schedules and the weather permit the enjoyment of the natural environment, (e.g. summer camp/retreat).

G. Rights of Children and Youth in Residential Care

Children in residential care, have the same basic rights as all foster children including the right to privacy, humane treatment, adequate shelter, clothing, nutrition, essential personal care items, access to religious worship services of their choice, access to counsel and the courts, access to family members, freedom from excessive medication, freedom from unnecessary seclusion and restraint, and the right to advocacy services (See Appendix for list of advocacy services). It is important that these rights be explained to each child and family members in a manner consistent with the child's level of understanding. A child has the right at the ISP or at any other time to advise a worker whether they believe they have been denied the ability to participate in a normalizing activity.

II. LEGAL AUTHORITY

(The excerpts below are for the reader's convenience. See the Addendum for the Child Care Act of 1971 printed in its entirety.)

§38-7-3. License to operate or conduct childcare facility --Required.

No person, group of persons or corporation may operate or conduct any facility for child care...without being licensed.

§38-7-4. Same --Application; investigation; application to operate foster family home may be made to license 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 an approval... 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.

§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; factors to be considered; children in need of special treatment; department to offer consultation.

Public Law 113-183: Preventing Sex Trafficking and Strengthening Families Act September 29, 2014. In order to provide normalcy for children in Out of Home Care, Act 2016-129 was passed by the Alabama Legislature in 2016, grants caregivers authority to allow children placed in Out-of-Home-Care to participate in age or developmentally appropriate childhood activities based on Reasonable and Prudent Parenting Standard (RPPS). Act 2016-129 includes in the caregiver definition a designated official for a

residential child care facility. This definition includes, but is not limited to foster parents. This allows foster parents and caregivers increased flexibility and discretion in making decisions regarding age appropriate activities.

Code of Alabama, 1975 § 12-15-102 (23): Parents retain certain residual rights and responsibilities when their children are placed in out-of-home care. Code of Alabama, 1975 § 12-15-102 (23) describes these rights and responsibilities as including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation, and the responsibility for support, unless determined by order of the juvenile court not to be in the best interests of the child.

The Department is required to have criminal background checks conducted. Below are the applicable statutes related to residential child care facilities:

§38-7-2. Definitions. Child Care.

- (1) CHILD. Any person under 19 years of age, a person under the continuing jurisdiction of the juvenile court pursuant to Section 12-15-117, or a person under 21 years of age in foster care as defined by the Department of Human Resources.
- (2) DEPARTMENT. The Department of Human Resources of the State of Alabama.
- (3) RELATED. Any of the following relationships by blood, marriage, or adoption: parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, step grandparent, half-brother, half-sister, uncle or aunt, and their spouses.
- (4) 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.
- (5) 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 schools, grades 1 through 12, or taught in public elementary schools, high schools or both elementary and high school.

- (6) **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.
- (7) **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.
- (8) **SHELTER CARE.** The temporary care of children in group homes, foster care or other non-penal facilities. (Acts 1975, No 1205, §5-101.)
- (9) **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 in a variety of residential settings with varying degrees of care and supervision.

§26-14-1. Definitions. Reporting of Child Abuse and Neglect.

- (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 non-accidental 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 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.
- (2) **NEGLECT.** Negligent treatment or maltreatment of a child, including the failure to provide adequate food, medical treatment, supervision, clothing, or shelter.
- (3) **CHILD. A person under the age of 19 years.**

Code of Alabama, 1975 §§ 12-15-301 (11), 12-15-314 (g) provides the following:

- (1) Age or developmentally appropriate activities is activities or items generally accepted as suitable for children of the same chronological age or level of maturity or that are

determined to be developmentally appropriate for a child based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group and, in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

(2) Reasonable and Prudent Parenting Standard (RPPS)

Standards characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child, while at the time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities.

A caregiver shall be immune from liability in a civil action to recover damages that results from a caregiver's decision using the reasonable and prudent parent standard. However, this immunity does not remove or limit any existing liability protection provided by law.

(3) Caregiver Authority. A caregiver shall have the authority without prior approval of the department, juvenile court, or circuit court, to allow a child in their care that is in foster care to participate in activities that are age or developmentally appropriate for the child based on a reasonable and prudent parent standard, provided the activities are consistent with provisions of any existing court order, individualized service plan, or promulgated policy of the department that provides guidance to caregivers concerning the reasonable and prudent parent standard. The guidance shall include factors for the caregiver to consider prior to allowing a child to participate in age or developmentally appropriate normal childhood activities.

(4) Exceptions to Caregiver Decision Making

- Changing a child's school, school attendance, IEP, or participation in a GED program
- Adjusting a child's psychotropic or other prescribed medication
- Authorizing children to have major medical procedures
- Changing a child's court-ordered visitation plan
- Interfering with a child's visits with siblings
- Preventing a child from participating in ILP
- Returning a child to the caregiver from who they were removed
- Allowing a child to drive

(5) Residential Setting Activities

- a. When children are placed in a residential child care facilities/treatment setting, the provider will incorporate normalcy activities into the program. The activities will be in-line with the reasonable and prudent parent standard and will help children with skills essential for positive development.
- b. The provider must have the presence of at least one onsite official who, with respect to any child placed with the provider, will be the designated caregiver who is

authorized to apply the Reasonable and Prudent Parenting Standard to decisions involving the participation of the child in age or developmentally-appropriate activities. This person must be approved by DHR.

The Department is required to have criminal background checks conducted on all adults working in a facility. Below are the applicable statutes related to residential child care facilities:

Public Law 115-123, the Family First Prevention Services Act (FFPSA) requires SBI and FBI criminal record and registry checks for adults working in child-care institutions (CCI) and any adult living in the facility. The criminal records check must reveal that the individual has not been convicted of the prohibited felonies as detailed in section 471 (a) (20) (D) of the Act. FFPSA requires that title IV-E agencies apply these same procedures for fingerprint-based criminal record checks of state and national crime information databases and child abuse registry checks on any adult working in a CCI, which includes group homes, residential treatment centers, shelters, and other congregate care settings. The statute does not allow any exemptions or exceptions for conducting the checks on any adults who work in such settings, including adults who do not work directly with children.

Act No. 2019-322 amended the Code of Alabama 1975, §§38-13-2 and §§38-13-4, to require background checks for any adult working in a child institution, group home, maternity center, or transitional living facility, which includes group homes, residential treatment centers, shelters, and other congregate care settings.

§38-13-2 provides the following:

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 regard 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. The term also includes any adult working in a child care institution, group home, maternity center, or transitional living facility, as defined in Section 38-7-2.

(4) AUTOMATED SYSTEM. The computerized, automated fingerprint identification system (AFIS) maintained by the Alabama State Law Enforcement Agency that allows for a computer search of the in-state database for criminal history background check information maintained by the Alabama Criminal Justice Information Center (ACJIC). The system contains criminal history background information for fingerprint-based and name-based searches.

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

(6) 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.

(7) 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.

(8) CHILD OR CHILDREN. An individual under 19 years of age.

(9) 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. The term includes exempt child care facilities.

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

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

(12) 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, the Alabama Criminal Justice Information Center, and the Alabama State Law Enforcement Agency 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.

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

(14) **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.

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

(16) **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.

(17) **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.

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

(19) **EXEMPT CARE FACILITY.** A person or entity exempt by law from licensure by the Department of Human Resources, including adult care facilities.

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

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

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

(23) **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.

(24) 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.

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

(26) 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, 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.

(27) 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.

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

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

(30) SEX CRIME. Includes any sex offense listed in Section 15-20A-5 .

(31) SUITABILITY CRITERIA.

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

1. A violent offense as defined in Section 12-25-32 .
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. 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(a)(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, et seq. , for Department of Human Resources licensed child or adult care facilities.

(32) 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.

(33) 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.

(34) 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.

(35) 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 Alabama State Law Enforcement Agency 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 criminal history background information check report, to 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 background information check report is being sought.

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

§38-13-4 provides the following:

(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:

(1) 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. Refusal to complete these documents or providing false information may 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 may 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.

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

a. A violent offense as defined in Section 12-25-32.

- b. A sex crime as defined in Section 15-20A-5.
- 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 as defined in Section 38-13-2
- e. A crime involving the sale or distribution of a controlled substance.
- f. A crime or offense committed in another state or under federal law which would constitute any of the above crimes in this state.
- g. Conviction for a crime listed in the federal Adoption and Safe Families Act, pursuant to 42 U. S.C. Section 671 (a) (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.
- h. The Department of Human Resources may set other disqualifying convictions by rule under the Administrative Procedure Act, Section 41-22-1, et seq., for Department of Human Resources licensed child or adult care facilities.

III. PERSONNEL

A. General Policy

1. Personnel Files

- a. Administrative files shall include, but are not limited to, the following:
 - Written personnel policies approved by the board which regulate such practices as salaries, fringe benefits, working hours, sick leave, vacation, holidays, retirement, and termination, grievance and training. The provider must also have policy regarding the Reasonable and Prudent Parenting Standard. A copy shall be provided to each employee.
 - Qualifications and job descriptions for all administrative and regular positions. These shall be reviewed annually by the executive.
- b. Individual personnel files shall be maintained for the executive and for each employee. **A file shall also be established for each volunteer.** The files shall include at least the following:

- The application for employment or volunteer position
- Information regarding the character and suitability of the applicant. **Fingerprint based criminal record checks of state and national crime information databases and child abuse registry checks are required on any adult working in a facility, which includes child care institutions, group homes, residential treatment centers, shelters, and other congregate care settings. There are no exemptions or exceptions for conducting the checks on any adults who work in such settings, including adults who do not work directly with children.** This includes but is not limited to: 1) Results of criminal record checks; 2) Response to Clearance of State Central Registry On Child Abuse/Neglect (DHR-DFC-1598); 3) Documentation of contact with former employers and references; and 4) Other pertinent history.
- Verification that the employee meets the specific qualifications for his/her particular job as stated in job descriptions of the child care facility.
- Documentation of completion of training.
- Signed statement by the employee confirming that they have read and have an understanding of Section IV B, Program Child Care Practices outlined in these standards.
- Signed statements by the employees confirming that they have been trained and have an understanding of the use of the Reasonable and Prudent Parenting Standard. This training must be conducted by a facility staff member approved by State of Alabama Department of Human Resources (SDHR). This is an annual requirement.
- Annual evaluations.
- Medical examination reports as required, (which shall be kept apart from general personnel files) as a separate, confidential medical record, available only under limited conditions specified under ADA/ Section 504.
- Reports regarding criminal convictions or charges occurring after the employment of an individual.

In the event of misconduct or dereliction of duty, a full report of the circumstances, the inquiry procedure followed, and the disposition made shall be recorded and handled in accordance with the child care facility's policies.

Staff records shall be kept for a period of five (5) years after the date of employment termination. These files shall be made available for review by the Department upon request.

2. Medical Requirements: Each employee shall have verification of a medical examination as specified below.
 - a. Complete physical examinations for staff by a licensed practicing medical doctor or physician's assistant (as defined in 34-24-290 (4), Code of Alabama 1975) shall be made within three months prior to employment, and record of the examination shall be on file in the facility as a separate confidential medical record. The DHR-DFC-737, Medical Report for Persons Giving Care to Children (see copy of this form in the Appendix), shall be completed in all respects, including tests specified.
 - b. Another medical report form other than that which is supplied by the Department (DHR-DFC-737) may be used that:
 - Includes the same information;
 - Includes the history of any chronic disease and a statement by the licensed practicing medical doctor or the physician's assistant indicating whether or not the condition affects the individual's ability to care for children or to perform services in a child care facility;
 - Includes a statement by the licensed practicing medical doctor or physician's assistant as to whether or not the examination reveals that the person examined is free of any contagious or infectious disease, physically fit to care for children or to perform services and does not pose a "direct threat" to the health or safety of others in a child care facility as outlined under requirements of the American Disabilities Act.
 - c. At least every four years from the initial examination (earlier if concerns regarding the mental, physical or emotional health of the employee arise) each employee shall have:
 - A complete physical examination as specified in (a.) above, excluding the tests specified; or
 - A statement from a licensed practicing medical doctor or

physician's assistant which attests to the employee's freedom from contagious and infectious diseases and his/her physical fitness to care for children or to perform services in a child care facility.

- A record of such examination or physician's statement shall be on file in the facility as a separate confidential medical record.

d. A staff person, who, upon observation or examination or as a result of tests, shows indication of a physical, emotional, or mental condition that 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 shall be required at the discretion of the Department's representative. Such report or recommendation shall be maintained in the employee's file for review by the Department.

3. Character and Suitability Requirement

All applicants and holders of a child care license or six-month permit, all applicants for employment in a paid or voluntary position, and all current employees in paid or voluntary positions must be suitable and of good moral character in order to operate or work in a child care facility. All applicants shall be investigated to determine character and suitability to hold a license/permit or work in a child care facility. Information regarding the character and suitability shall be reviewed by the Department at the time of initial application. For purposes of this requirement, an applicant includes all board members and officers of corporations, partnerships, associations, or other legal entities having direct contact with the children in care. Because staff family members living in the home or visiting overnight in the children's living units shall also be of good character and suitability, a criminal background check, **SBI, FBI, and child abuse registry check** shall be obtained on these individuals. Upon promulgation of these regulations, the applicant/licensee shall conduct a character and suitability review on all applicants for employment in a paid or voluntary position, and all current employees in paid or voluntary positions. The review shall consist of the following components:

- Review of Past History;
- Criminal History Check, **SBI and FBI**;
- Clearance of State Central Registry On Child Abuse/Neglect

Evidence of unsuitable character **will result in** the denial of an initial

application or renewal, or the suspension, or revocation of a license or six-month permit.

a. Review of Past History

The character and suitability of a licensee/permit holder, staff member, or applicant for employment, in a paid or voluntary position, to hold a license or six-month permit or to work in a child care facility **shall** also be **determined** by a review of the past history of the individual regarding their veracity and their ability to care for children. Past history to be considered includes but is not limited to the following.

- False or misleading statements made by the individual to the Department or other Government facility personnel regarding incidents or events occurring while on the job or surrounding part of any child abuse or neglect investigation conducted by the Department, law enforcement or other government officials are considered as evidence of unsuitable character.
- Applicants for a license/six month permit and holders of licenses/six month permits who are discovered to have had a history of (1) operating without a license and refusal to cease operations and apply for a license or permit or (2) refusal to allow the Department to conduct investigations regarding their activities allegations of abuse and neglect or history of noncompliance with minimum standards are also considered as evidencing unsuitable character.

b. Criminal History

- All applicants for a license or six-month permit and all staff members and applicants for employment in paid or voluntary positions, must reveal on their application all past criminal convictions/or charges, except for minor traffic violations, since age 16. Driving Under the Influence is not considered a minor traffic violation and must be reported to the Department
- All applicants for a license or six-month permit and all staff members and applicants for employment in paid or voluntary positions shall submit authorization for release of Alabama criminal history information. The information **shall be obtained by the approved contractor through the State of Alabama Department of Human Resources, Criminal History Unit. The Contractor will send the results to the State of Alabama Department of Human Resources, Criminal History Unit. The Criminal History Unit will send a letter of suitability or unsuitability. Fees shall be paid by the facility or applicants of the facility. The applicant must complete and sign the application.**
- No applicant shall be hired or volunteer services used if convicted of a crime in this or another state at any time if a State court of competent jurisdiction has determined a

felony conviction for any of the following crimes. Also, an applicant shall not be hired or volunteer's services used if convicted as an accessory to a crime that involves a felony conviction for one of the following offenses.

- Any abuse or neglect against a child,
- Any felony against a child,
- Any assault or abuse against a domestic partner or former domestic partner
- Any crime that has violence or threat of violence against any person. This includes but is not limited to any sex-related crime (including those listed under the Community Notification Act).
- rape in the first or second degree;
- sodomy in the first or second degree;
- sexual torture;
- promoting prostitution in the first or second degree;
- arson in the first or second degree
- serious intentional, reckless or negligent physical injury, danger or death of any person such as but not limited to: murder, homicide, manslaughter, assault with a weapon, criminal negligence
- stalking or aggravated stalking
- any solicitation, attempt or conspiracy to commit any of the above crimes
- An applicant will not be hired or volunteer's services used if the record check reveals that within the past five (5) years a court of competent jurisdiction determined a felony conviction for any of the following crimes. Also, the Applicant will not be hired or volunteer's services used if convicted as an accessory to a crime that involves a felony conviction for one of the following offenses

- physical assault against someone other than a child, domestic partner, or former domestic partner in which a weapon or deadly instrument was not used (see d above if committed against a child, domestic partner, or former domestic partner or if a weapon or deadly instrument was used).
- battery (this is no longer listed as a crime in Alabama but you may receive a report from another state), or
- a felony drug-related offense. This includes a felony DUI.
- The licensee or permit holder, and all staff members must advise the facility's director or administrator and the Department of all criminal convictions and /or current criminal charges, including Driving Under The Influence which occurred after the licensee/permit holder attains a license/permit or during the course of employment with the child care facility. Such reports shall be made within 24 hours and will be followed by a written report within five (5) days. This information shall be kept in the individual's file.

c. Child Abuse and Neglect History

The character and suitability of a licensee/permit holder, staff member, or applicant for employment, in a paid or voluntary position, to hold a license or six-month permit or to work in a child care facility shall also **require** a clearance from the State Central Registry on Child Abuse/Neglect.

- At the time of initial application, a completed Request for Clearance of State Central Registry On Child Abuse/Neglect (DHR-DFC-1598) shall be submitted by the licensee/permit holder, staff member, or applicant for employment, in a paid or voluntary position. Completed forms shall be kept in the individual's file (See Appendix for a copy of the form).
NOTE: Subsequent Request for Clearance of State Central Registry on Child Abuse/Neglect (DHR-DFC-1598) may be requested at any time.
- A review shall be conducted on all applicants for a license/permit, staff members, and all applicants for employment, who are discovered to have been determined

by a child or adult protective service agency in any state, to have perpetrated the abuse or neglect of a child or adult.

Determinations which fall within the general subject area outlined under Criminal Records Check above, even if no criminal conviction has occurred, are considered as evidence of unsuitable character.

Employment or approval shall be denied, terminated or the approval revoked if persons are determined to not be of appropriate character or suitability to work with or provide care and supervision for children.

B. Staffing -- Job Descriptions and Qualifications

Any child care facility accepting referrals from the Department of Human Resources shall be certified by the Department as being in compliance with all laws pertaining to non-discrimination (Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, and Americans With Disabilities Act of 1990).

1. Board of Directors

There shall be a board of directors active in an administrative and/or advisory capacity.

a. Responsibilities

- The board or its designee shall consult with the Department prior to establishing a new child care facility, changing the purpose, goals or function of the basic program, or extending services into additional program or geographic areas.
- The board shall notify the Department when there is a change of the executive and/or chief officer of the board.
- The board or its designee shall provide financial information to the Department.
- The board shall articulate the purpose, goal, and function of the child care facility and establish written job descriptions and qualifications.
- The board shall establish written by-laws governing the organization, duties and operation of the board.
- The board shall ensure the establishment of written operating policies including, but not limited to: organizational structure,

administration, personnel practices, intake, discharge, program, behavior management practices, and Reasonable and Prudent Parenting Standard.

- The board shall distribute to its members copies of the prescribed regulations for child care facilities.
- The board shall employ a qualified executive, and delegate to him/her the responsibility for administration of the child care facility.
- The board shall be responsible for providing operating and capital funds. Financial policies and practices shall be in accord with sound budgeting, disbursement, and audit procedures.
- The board shall provide evidence that sufficient funds are available to equal twenty-five percent (25%) of the projected operating budget for the first year of operation and annually thereafter.
- The board shall approve the annual budget and revisions, if any, to the annual budget, in advance of the applicable fiscal period.
- The board shall provide for proper bonding of board officers and the facility employees who handle operating or capital funds of the child care facility.
- The board shall provide for an opinion audit on an annual basis by a certified public accountant not on the staff of the child care facility nor a member of the board.
- The board shall provide a copy of the audit to the Department which the chief officer of the board certifies has been presented to the board as a whole. Child care facilities operated by a governmental agency shall provide a copy of the annual report of the appropriate fiscal examining authority.

2. Executive

a. Responsibilities

- Maintain knowledge of the licensing standards, Reasonable and Prudent Parenting Standard, operating policies and personnel policies.
- Direct, evaluate, and articulate a program of child care within the limits of function and policy established by the board.

- Make regular reports to the board on all phases of the operation of the child care facility and its program.
- Make regular reports to the Department in accordance with requirements by the Department.
- Prepare the annual budget, and handle expenditures according to budget allocations.
- Organize the work of the child care facility and delegate responsibility to various staff members, as appropriate, including the appointing, evaluating and termination of staff.
- Make provision for continuity of administrative authority in his/her own absence.
- Assess the total operation of the child care facility and its program annually, report to the board the successes, barriers, strengths and needs, and make appropriate recommendations.
- The executive shall not be assigned, nor assume, any primary responsibility for fund-raising or other activities that necessitate extended absences from the child care facility or which interferes with his/her administrative responsibilities in conducting the child care facility program, unless another full-time staff member is assigned responsibility and authority for the day-to-day operation of the child care facility.

b. Qualifications

- A baccalaureate degree in the field of social work, psychology, administration, or a related field, from a college or university accredited by one of the six regional accrediting associations of the United States.
- A minimum of 24 months' successful full-time, paid employment in family and children's services, including progressively responsible administrative and/or supervisory experience.
- NOTE: Graduate training in administration, education, psychology or social work at an accredited graduate school

may be substituted in lieu of a up to 12 months of the experience listed above. One academic year may substitute for 6 months' experience, and two academic years for 12 months' experience (i.e., completion of a two year graduate program will require only an additional 12 months experience rather than the 24 months as stated above).

3. Child Care Staff (known variously as child care workers, house parents or cottage parents)

a. Responsibilities

- Provide direct care and supervision of children.
- Every child care staff worker who directly supervises children shall be off at least 24 consecutive hours per week for which they are not working in a child care worker capacity.
- When two relief staff are unavailable, one child care staff worker shall be permitted to provide relief for the two regular child care staff, as long as staff to child ratio is maintained.

b. Qualifications

- A high school diploma; or a GED certificate.
- Training or experience in child development issues
- Physical health adequate to participate, when appropriate, in the activities of children, as documented by the required medical examination.
- Minimum age of 19 years old.

NOTE: Child Care Staff hired prior to March 1, 2000 who do not hold a high school diploma or GED certificate may retain their child care position for the facility in which they are employed as of March 1, 2000.

4. Relief Staff

a. Responsibilities

- Provide for care and supervision of children when child care

staff are off duty.

b. Qualifications

- Relief staff shall meet the same qualifications for employment as child care workers.

5. Social Service Staff

a. Responsibilities

- The child care facility shall:
- Employ its own social service staff, or
- Contract with a cooperating agency or private individual to provide social services. A written agreement shall be signed between the child care facility and the social service agency providing such services. The agreement shall detail specific duties to be performed for the child care facility relative to admissions, discharges and Care/Treatment Plans.

b. Qualifications

Staff rendering social services must meet at a minimum one of the following criteria:

- A social worker licensed under Alabama law, licensed and practicing pursuant to Alabama Act No 652, (Regular Session 1977) effective November 23, 1978.
- The individual may be licensed at the following levels:
- A licensed independent clinical social worker (LICSW), or
- A licensed master social worker (LMSW), or
- A licensed bachelor social worker (LBSW) with continuing supervision from a person licensed as specified above.
- A professional counselor licensed under Alabama law

- A licensed professional counselor (LPC) under Alabama law specified in Code of Alabama, 1975, § 34-8A-7(1) through (6) or
- An associate licensed counselor (ALC) under Alabama law specified in Code of Alabama, 1975, § 34-8A-8 (1) through (3).
The associate licensed counselor may not practice without direct supervision by a licensed professional counselor. The plan for supervision of the associate licensed counselor is to be approved by the board prior to any actual performance of counseling on the part of the associated licensed counselor.
- A psychologist licensed under Alabama law.

6. Other Professional Staff

- All other professional staff employed by the child care facility shall be qualified in their occupational fields or licensed in their professional fields.

7. Volunteers (For those child care facilities using volunteers)

a. Responsibilities

- Volunteers shall not be permitted to assume total responsibilities or duties of any paid staff member.
- Written job descriptions and responsibilities shall be developed for all volunteers.
- A staff member shall be designated to supervise and evaluate the activities of the volunteers.
- A file will be maintained on the schedules, hours worked and activities of volunteers.

C Staff Development (all staff, including volunteers)

1. Orientation

- a. New staff shall receive orientation within 30 days of employment.
Orientation will cover:
 - agency philosophy, policies, and procedures.
 - generally accepted principles of child care and behavior

management practices.

- overview of the Child Care Institution, Group Homes, and Child Placing Agencies.
- confidentiality issues.
- *Reasonable and Prudent Parenting Standard training (Residential child care facilities must have one trained official in RPPS onsite to be the designated caregiver authorized to apply the reasonable and prudent parent standard. This person must be approved by DHR).

* All residential child care facilities must have a staff member trained in RPPS who will be responsible for approving requests to participate in age and developmentally appropriate activities. A designated staff member must receive training and approval by SDHR prior to training facility staff.

- b. This program must be under the supervision of qualified staff and appropriate to the position being assumed by the new employee. Completion of orientation shall be documented in the employee's file.

2. New Hire Training

- a. Training consisting of a minimum of thirty (30) hours of actual training time will be given within the first one hundred eighty (180) days of hire
- b. The training shall consist of the following components:
 - Child Development
 - Behavior Management
 - The Process of Grief and Loss
 - The Dynamics of Attachment and Separation
 - The Value of Families
 - Individualized Service Plan *
 - Identifying the Strengths and Needs of Families and Children
 - Behavior as an expression of Underlying Needs
 - The Value of Partnerships
 - How Children Enter the Foster Care System
 - Family Implications among Agency Personnel
 - Overview of the R.C. Consent Decree *
 - Understanding and Valuing Cultural Differences

* Exemptions from these sections are allowed for agencies not accepting DHR children into placement.

3. Continuing Education

- a. After the first anniversary of employment, a program of in-service training will provide staff with a minimum of fifteen (15) hours in-service training annually. Participation at conferences and workshops may be included as part of the 15 hours as documented by attendance certificates.
- b. Training may include, but is not limited to:
 - Child Safety Issues
 - Crisis Intervention/Engaging Families
 - The Impact of the Media on Children
 - Effects of Multiple Placements
 - Cultural Sensitivity and Responsive Services
 - Significance of Birth Families
 - Substance Abuse
 - Gang Activity
 - Universal Precautions and Infection Control
- c. Reasonable and Prudent Parenting Standard training must be provided annually.

IV. SOCIAL SERVICES

A. Records

1. Social Information

Complete social information shall be obtained prior to admission except in cases of emergency placement. Social information shall include, but is not limited to, the following:

- a. A written application, including reason for referral
- b. Face Sheet to Include:
 - Child's name
 - Child's birthdate (verified)
 - Child's race
 - Child's gender
 - Name of custody holder
 - Address of custody holder
 - Telephone number of custody holder
 - Name of biological parents

- Address of biological parents
- Telephone number of biological parents
- Emergency Contact name, and telephone number
- c. Religious affiliation, if any
- d. Name, address, and relationship of person with whom the child was living immediately prior to placement.
- e. Personal and family history prior to placement.
- f. Psychiatric and psychological reports, if any are available.
- g. Copy of court custody order, and any agreement with parent, agency or person holding legal custody or having planning responsibility.
- h. Current medical examination report.
- i. School records
- j. Financial Arrangements
- k. List of persons related and unrelated who should or should not be allowed visitation rights or contact

2. Case File

- a. The complete case file shall be kept current and include the following:
 - Face Sheet
 - Dates of the pre-placement visit and the outcome
 - Social and Developmental History
 - Legal
 - Financial
 - Medical and Dental
 - Psychiatric and Psychological
 - Education
 - Visitation
 - Summaries and Care/Treatment Plans and or ISPs
 - Correspondence
 - Discharge Summary to include documentation
 - Documentation of activities for each child in DHR's custody is participating on a monthly basis to ensure each child is being given adequate opportunities for participation in recreational, social, cultural, enrichment, and education activities.

Refer to "Suggested Detailed Outline for Individual Case Records for Facilities That Do Not Have an Organized Plan" in the Addendum

3. DHR-EEO-808

Intake procedures shall be in conformity with policies established by the Division of Equal Employment Opportunity and Compliance in the State Department of Human Resources and shall apply only to facilities accepting referrals or

placements from the Department of Human Resources. Form DHR-EEO-808, Record of Intake Processing, shall be used for this purpose. Another form may be used which gives the same information.

4. Placement Authorization

At the time of admission, the child care facility shall have one of the following:

- A signed Placement Agreement (DHR-DFC-824) (for children who are not in the custody of DHR at the time of admission).

The agreement is to be with one of the following:

- parent of the child
- the person (other than the parent) or agency having legal custody of the child by virtue of a court order (and a copy of the court order granting such custody) or
- the agency authorized to provide out-of-home care by virtue of an agreement between the parent and the agency (a copy of the authorization between the agency and the parent shall be included)

or

- DHR shall sign the PSD-DFC-823, Inter-Agency Agreement, in accordance with the Reasonable and Prudent Parenting Standard when they place a child in a residential facility. This agreement addresses consent of the county DHR for medical treatment for the child, and provides permission for the child to participate in recreational, social and educational activities offered or approved by the residential child care facility and taking place within the state.
- a copy of the most recently completed ISP form

or

- A court order granting custody of the child to the child care facility, if appropriate. Neither the Placement Agreement nor the Inter-Agency Agreement are needed if the child care facility is granted custody through a court order

5. Care/Treatment Plan

Case planning shall begin at the time of placement. The licensed social service staff at the child care facility has the responsibility to involve the child and the child's family in developing a written individualized care/treatment plan for each child within 30 days of admission and adhere to Reasonable & Prudent Parenting Standard. The staff responsible for the development of the plan shall have training or 6 months experience in the development and monitoring of a care/treatment plan. The child care facility will maintain the plan to use in providing social services. The plan shall include:

- The date the plan is developed;
- An assessment that identifies the strengths and needs of the child and family and designates measurable, realistic, achievable and time limited service objectives or goal;
- Designation of the actions that each person (i.e. the child, the child's family, the child care facility and the referring agency) will take to reach the objectives and goals;
- Goals set in respect to length of stay, discharge, and aftercare;
- A written plan of the financial responsibility of the parent, guardian, legal custodian, or other responsible person or agency.

6. Confidentiality

- Confidential information concerning children shall not be used or disclosed for any purpose except to those directly involved in the care/treatment plan or unless the sharing of information is required to meet an individual's need for safety.
- Confidentiality of all information about children and their families shall be maintained as follows:
- By keeping case records in files that are locked when unattended.
- By restricting any disclosure of the whereabouts of the children to only (a) the parent or person having legal custody, (b) the agency having legal custody (c) person(s) providing authorized services, unless otherwise specified by court order or, (d) the persons or agency(s) for whom written informed consent has been obtained.
- By treating as confidential any and all discussion of information about children and their families.

B. Social Services Provisions

1. General

- a. A child care facility shall provide social services or contract for

social services on the basis of an average of one hour of social services per week for every child in the licensed capacity minus the number of staff's own children living in the facility. When social services are provided through contract, there must be a written agreement that the required hours are provided.

- b. Social services shall be a continuing process for children and their families. A child care facility which offers multi-disciplinary approaches serving children with exceptional needs and which meets the minimum standards for social services may employ other personnel to provide treatment, team leadership and clinical and social services for residents. These personnel must have at least a master's degree in a human services field and must be licensed and certified consistent with state law.
- c. The child shall have access to facility social service staff and be able to schedule private appointments upon his/her initiative alone.

2. Development and Review of Care/Treatment Plan

- a. Proper case planning shall begin within 24 hours after an emergency placement; within 48 hours on weekends and holidays.
- b. The provider must demonstrate and apply the reasonable and prudent parenting standard in developing or modifying the plan.
- c. The Care/Treatment Plan will be reviewed at least every six (6) months. Preparation for review shall include written summary of contacts with child's family. This shall be provided by the agency having primary planning responsibility. If the child care facility is the planning agency, instead of a separate report this information may be included under a separate heading of the summary of the child's adjustment and progress.
- d. Review will consist of:
 - Written summary of the child's adjustment and progress in all important areas of his/her life during the period since the last care/treatment plan.
 - Identification of individuals participating in the review.

Copy of report shall be provided to the social service agency having primary planning responsibility for the child. In cases of private referrals a

copy of this report shall be provided to the legal custodian.

3. Work with Child's Family

If the agency having primary planning responsibility and the child care facility agree that the facility's social service staff is in a better position to work with the child's family, the two agencies can agree for the facility's social service staff to work directly with the child's family. In such cases:

- a. the working relationship shall be stated in the care/treatment plan;
- b. the facility's social service staff shall then provide the services as indicated in the Care/Treatment Plan, and provide the agency having primary planning responsibility a written summary of each evaluation of the care/treatment plan
- c. the agency having primary planning responsibility retains its full authority for planning.

4. Other Services

- a. The child care facility shall appoint a designated staff member to make provisions for medical and dental services as required by these standards, and for psychological testing, psychiatric examination and treatment, vocational counseling and training, or other specialized services according to the child's needs.
- b. The child care facility shall notify the primary planning agency of the need for the services for a child which are not a part of the stated services offered by the program.

All specialists used by the child care facility shall be qualified and/or licensed in their respective fields.

C. Admission/Discharge

1. Admission

- a. Admission shall be limited to children for whom the child care facility is equipped by staff, program, and equipment to serve adequately.
- b. A child under six years (6) of age shall not be admitted to a child care facility except: 1) by special consent of the State Department

of Human Resources or 2) the child is admitted to a child care facility licensed to provide shelter care or where the child's mother is receiving care in a maternity center.

- c. The child care facility shall not accept a child from outside the state without first obtaining the consent of the State Department of Human Resources.
- d. Pre-placement Visit: There shall be a pre-placement visit by the child to the child care facility except in cases of emergency.
- e. Admission shall be a process that involves the child, the child's parents, guardian, or relative, if appropriate, and child care facility staff

2. Discharge

- a. The time in residence shall be no longer than necessary, as determined by the needs, progress and/or development of the child, the situation of his/her family, or both.
- b. The child care facility and the agency/individual having primary planning responsibility shall coordinate the discharge of the child. Unless there is clear and documented evidence that the child is a danger to himself/herself or others, each agency/individual shall inform the other agency/individual at least 30 days in advance of the proposed date of discharge.
- c. A discharge summary and written recommendation for aftercare shall be developed and provided to the person/agency responsible for aftercare.

3. Emergency Placements

Emergency placements may occasionally be required. The principles of placements shall be adhered to, even though the span of time over which an emergency placement takes place may be abbreviated.

V. PROGRAM

A. Physical Care

1. Staff to Child Ratio

- a. The child care facility shall have sufficient number of qualified paid staff to provide for each child's physical and emotional needs at all times and perform required tasks.

- b. The ratio of child care workers to children shall not be less than one child care worker on duty for each 8 children. Exception: During the hours of 10 PM to 7 AM the ratio of child care workers to children shall not be less than one child care worker on duty for each 10 children.
- c. When child care staff or other staff have their own children living in the same living units as children under care, such children shall be included in the licensed capacity of the child care facility.
- d. The administrator shall advise the Department in writing of the number of staff's children living in the facility (See form 610 in Appendix). Note: The State Department may require a higher ratio of staff per child for those child care facilities serving children with more specialized needs as determined by a child's Care/Treatment Plan and or/ISP.

2. Medical Care

- a. An ongoing relationship shall be established with a licensed practicing physician or clinic to advise the child care facility staff concerning medical plans, programs and treatment of children in care. Parental consent is required for non-routine medical decisions.
- b. Each child shall have a complete physical examination or the benefit of medical screening or assessment (i.e., MediKids or EPSDT) for children eligible for Medicaid. A copy of the complete physical examination report or assessment shall be on file. Such examination shall be made within three months prior to admission and at least annually thereafter. (Another EPSDT may be requested if a Medicaid recipient had a screening longer than 3 months prior to admission and they are entering foster care.) Exception: In emergency placements where a medical is not available a medical examination and report shall be obtained no later than ten (10) days after the placement.
- c. The initial examination for children shall consist of a complete history, physical examination, and tests as listed on form DHRDFC-623. (A form is acceptable which makes provisions for the same information as the DHR-DFC-623, Child's Medical Record-Foster Care, in the Appendix, which is furnished by the Department.). Information about the family health history is helpful.

- d. Each child care facility shall make provision and establish procedures for routine medical services, hospitalization and/or emergency medical or surgical treatment of children. Financial arrangements for provisions of these services shall be part of the Placement Agreement.

See Physical Facilities: Medicines, Drugs, Firearms (Section VI-G) for information about safe storage of medicine and medical supplies.

3. Dental Care

- a. An ongoing relationship shall be established with a licensed practicing dentist(s) to advise the child care facility staff concerning dental plans, program and treatment of children in care.
- b. Each child shall have a routine dental examination at least annually. Necessary follow-up treatment shall be provided.
- c. Each child care facility shall make provision and establish procedures for routine and emergency dental services. Financial arrangements for provision of these services shall be a part of the Placement or Inter Agency Agreement.

4. Personal Hygiene

- a. The child care facility shall carry out a program of instruction to meet the individual personal hygiene needs for all children.
- b. Individual items such as towels, washcloths, toothbrushes and other toiletries shall be provided for each child according to their individual needs. It is suggested that one child's personal items not be allowed to touch that of another child's to avoid the possibility of contamination. Also, children are to be discouraged from sharing the personal items.

5. Rest

- a. The child care facility shall provide opportunity for uninterrupted sleep for each child according to his individual needs. Infants should be placed on their back to sleep (see information in Appendix regarding this).

6. Nutrition

- a. The child care facility shall provide wholesome nutritious and properly prepared daily meals, including: meats or meat substitutes, vegetables, milk, fruit, cereal, bread, and dessert. Special dietary needs shall be provided as recommended by a physician.
- b. At least three meals shall be served each day, each with a different menu. Menus shall be written in advance and shall be kept on file for one year and available for review.
- c. Between-meal and nighttime snacks shall be available, except when restricted for dietary or health reasons.
- d. The child care facility shall annually review its food service menus to assure that well-balanced, nutritious and appetizing food is served.
- e. When special dietary needs are identified, professional consultation shall be requested and modifications made as needed.
- f. Handling, storage, and preparation of food shall comply with state health standards.
- g. Food shall be of a size and consistency appropriate for the age, growth, and development ability of child.

7. Clothing

- a. Clothing shall be stylish, properly fit, clean and of good quality and appearance. The clothing shall not be different from clothes worn by children in the community.
- b. Children shall have a part in the selection of their clothes.
- c. Used clothes shall be used only when in good condition, when chosen by the child, and when properly renovated and fitted.
- d. When shoes are needed, new shoes shall be provided, and shall be fitted to the individual child. Used canvas sneakers, if in good condition and sanitized, may be used.
- e. Each child shall have his/her own clothing and a place for storing it.

- f. Responsibility for the provision of clothing shall be outlined in the Placement Agreement.
 - g. Clothing and other personal possessions contribute significantly to the child's feelings of normalcy, self-esteem and dignity.
8. Temporarily Altering Appearance (e.g., Haircut/color): Residential child care provider should make the decisions as to temporarily altering of a child's appearance based on known preferences of the birth parent. Birth parents' wishes shall be shared with the residential child care provider at the time of placement and at the ISP. Children 14 years old or older shall also participate in the decision-making process (Please see Chapter 420-3-23 of the Alabama Department of Public Health Administrative Code for rules and regulations regarding permanently altering appearance).

B. Child Care Practices

1. Discipline

- a. Discipline shall be used as a positive educational influence that seeks to develop inner controls and provide structure.
- b. The child shall be advised of all rules and regulations of the child care facility which apply to him/her.
- c. The staff members shall be aware of the rules and regulations of the child care facility, and consistent in their enforcement thereof.
- d. The administration shall be responsible for the thorough understanding by all staff members of policies and practices concerning discipline and punishment.

2. Punishment

- a. When punishment is required, it shall be fair, consistent, brief, related and in proportion to the offense and in accordance with the child care facility's written child care policies.
- b. Harsh and humiliating punishment, including corporal punishment, physical or emotional abuse is prohibited. Verbal abuse of a child and derogatory remarks about a child or his/her family is prohibited.
- c. Punishment shall not be administered by peers. Limited peer input into consequences of negative behavior may be appropriate as part of a therapeutic program under the supervision of a professional staff member.
- d. Positive corrective measures are to be used and may include, but are not limited to:
 - Loss of privileges
 - Time out (usually age of child plus two minutes)
 - Grounding to a certain area

- Redirecting the child's activity
 - Develop a behavioral contract
 - Extra chores
 - Restitution by child of other person's property damaged or destroyed by child.
- e. Withholding of sleep, meals or mail, arbitrarily sending a child to bed early, and the curtailment of visits by the child's family to the child, shall not be used as a type of punishment at any time.
- f. When a child is isolated, provisions shall be made for humane and safe conditions including room space appropriate to the developmental level of the child, adequate ventilation and lighting, and a room temperature consistent with the rest of the home or facility. Meals, routine medication and water must be provided. Observation of a child in isolation shall occur **at least every 30 minutes** or more often as necessary. The behavior management plan will describe how frequently the child must be observed and will authorize any restrictions imposed while the child is in isolation (e.g., no TV or radio).

3. Behavior Management

- a. Child care facilities will develop written policies regarding behavior management. The policy will be explained to each child upon placement and a copy will be provided to the person placing/holding custody of the child.

4. Public Appearances

- a. Public appearance of the children shall not be for the purpose of display, and shall be permitted only when such appearances have positive and constructive value for the children and with the consent of the custodian or person or agency responsible for the child.
- b. Children shall not be required to attend parties, church functions, fund raising drives, picnics, etc., sponsored by various groups.
- c. Children shall never be exploited for the benefit of the child care facility. All public appearances by the children as representative of the child care facility shall be voluntary.
- d. The child's sleeping area and personal belongings shall not be on display to the public except for those rare occasions when the child care facility observes open house, homecoming, etc., and always with the permission of the child
- e. Consent may be given for the news media to use photographs of children when the purpose is to recognize a child's achievements (e. g., high school graduation; academic or athletic awards and scholarships). Nineteen and twenty year olds may provide their own consent and must notify their child welfare worker. When DHR

holds temporary custody, parental consent shall be obtained if the parents are available and the child is under age nineteen (19) years. Counties should attempt to obtain consent from parents at the initial ISP. If the parents are not available, the County Director may provide consent upon recommendation by the child, the child's worker, and the worker's supervisor following a review of the child's circumstances. If DHR holds permanent custody, the Office of Adoption shall be notified of the plan for publicity.

5. On-Campus Work Assignments

- a. Work assignments shall be considered as part of the participatory responsibility of living together, or as a means of earning money. Children shall not be considered as substitutes for employed adult staff, nor shall they be employed as a means of avoiding the hiring of adult staff.
- b. Work assignments shall be made in accordance with the age and ability of the child.
- c. Jobs for children shall be assigned so that they will not conflict with educational needs, playtime, extracurricular activities, or normal community visits, or visits with their families and friends.
- d. Children shall have some choice in their chores, and a change of routine duties shall be offered periodically to reduce monotony and to provide a variety of experiences.
- e. Children shall not be employed for the financial gain of the facility and monies earned shall be the property of the child.

6. Sponsors

- a. Where sponsorship of specific children by church or other unrelated groups or individuals exists, no child shall be compelled against his/her will to visit. A visit shall be planned with the child's consent, and subject to the approval of the legal custodian or person or agency responsible for the child.

7. Telephone and Mail Contacts

- a. Child care facilities will develop written policies regarding telephone and mail contacts. The policy will be explained to each child upon placement and a copy will be provided to the person placing/holding custody of the child.

8. Visiting Practices

- a. Family ties shall be encouraged and maintained in accordance with the Care/Treatment Plan.
- b. Visitation rights of the family and child shall be honored, unless specific, definable and documented reasons to the contrary have

- been established through the Care/Treatment Plan and/or ISP.
- c. Families shall be afforded privacy with their children during visitation on the facility campus, unless specific, definable and documented reasons to the contrary have been established through the Care/Treatment Plan and/or ISP.
 - d. Children shall have the right to be with their own relatives on all possible occasions, especially at holiday time. Holiday visits shall be determined to be in the child's best interest, as allowed in the Care/Treatment Plan and/or ISP. If there are compelling reasons to prohibit visits, those reasons shall be documented.
 - e. Siblings in residence in the child care facility shall have the right to contact each other on their own initiative. If possible, siblings shall live together.
 - f. The child care facility's social service staff may approve families in the community for overnight visits after an assessment of the request and the visiting family. The assessment must be conducted by a licensed social worker or other licensed professional as defined in Section IIIB, Qualifications of Social Services Staff. If the assessment is conducted by a professional other than a social worker, that person must have training or 6 months experience in conducting such an assessment. The length of such visits shall be limited to 48 hours. Longer planned visits shall require the prior approval of the person or agency having legal custody or planning responsibility of the child.
 - g. If the child care facility's social service staff and the agency having primary planning responsibility concur in the written Care/Treatment plan that the child needs to be provided with developmental experiences through visitation in a family home with unrelated persons who may or may not have been previously known to the child, it shall be the responsibility of the facility to make a written request of a County Department of Human Resources or a licensed child-placing agency to approve a designated family as a visiting home for the child.
 - h. When the agency having primary responsibility for the child receives written approval of a visiting resource and forwards a copy to the child care facility, the child care facility social service staff shall plan visits directly with the visiting resource parents in accordance with the Care/Treatment Plan and/or ISP for the child.
 - i. The child care facility's social service staff shall report to the County Department of Human Resources or licensed child placing agency which approved the visiting resource pertinent information concerning the visits which are made. All visits will be reported on the Progress Reports.
 - j. Sound, appropriate plans shall be made well in advance of

proposed vacations and holidays.

- k. The child care facility shall make arrangements for on-campus care for children who have no natural family to visit during vacations and holidays or for whom there is no consent for visitation with an approved visiting family member or visiting resource.
- l. A child shall not be taken from, sent from, or allowed to leave the state without written consent of the natural parents who hold custody, or the juvenile court having jurisdiction of the child when custody has been removed from the natural parent.
- m. Visiting with friends, including friends from his or her community or a prior placement, will be promoted for every child in out-of-home care, unless visiting places the child's safety at risk. Rules for visiting with friends should be fair, flexible, and consistently applied to in the residential child care facility placement unless there is an exception made by the ISP team with input of the child. The exception must be documented.
- n. The Individualized Service Plan (ISP) team shall address children's participation in selected school and leisure activities. The ISP team shall evaluate the child's chronological and developmental age, maturity level, purpose of the activity, expected benefit to the child, the availability of resources (e.g., financial, transportation, time) to allow participation, and liability to the child, foster parents, and/or county DHR. Whenever possible the Department will encourage our children to explore hobbies, interest, sports, etc. If the foster parent wishes to have the Department pay for an activity, this payment must first be authorized in the ISP. If a foster parent plans to make payment for an activity related to RPPS, no prior authorization is needed.

9. Allowances

- The child care facility shall ensure that each child receives an allowance, spending money, or has the opportunity to earn money.

10. Educational Opportunities

- a. Children shall attend school in accordance with the school attendance laws.
- b. Space and suitable equipment, such as reference books, adequate lighting and quiet work space, shall be provided in the child care facility for home study.
- c. When practical, the residential child care facilities will provide opportunities for children to participate of children in extracurricular activities of the school which they attend shall be encouraged and transportation shall be provided or arranged.
- d. Vocational training, if available in the community for age appropriate children, may be provided in lieu of public school attendance. Such attendance shall be subject to the requirements

of the Alabama State Department of Education.

- e. Education relating to human health, and physiology shall be an integral part of the child care facility's program, and shall be geared to the child's age, stage of development and level of understanding.
 - f. The child care facility's professional staff shall be involved in the IEPs with the school to ensure that children are properly placed and making adequate adjustment and to plan jointly with school personnel in alleviating problems which arise.
 - g. Tutoring shall be made available to children who will benefit from additional assistance in obtaining or maintaining grade level.
11. Recreation (Residential child care facilities must comply with the Reasonable and Prudent Parenting Standard).
- a. Before allowing children in out of home care to engage in recreational and/or social activities, residential child care providers should consider whether the child has the safety equipment and necessary permissions and/or training for the child to safely engage in an activity including but not limited to boating, rock climbing, recreational vehicle use, sports or camping. Parental consent is also required for children to participate in activities which could result in potential danger (e.g. driving, football, hunting, etc.).
 - b. Positive community contacts shall be provided (i.e., church, civic groups, and YMCAs).
 - c. The child care facility shall provide facilities and staff to make recreation and other activities available within the child care facility.
 - d. Provision shall be made for adequate playtime, both for organized and free play, indoors and out, for all children under care.
 - e. The child care facility shall provide time for each child to be alone if appropriate, and places to go where the child will not be disturbed. He/She shall also be provided an opportunity to exercise some free choices of activity.
 - f. It is the responsibility of the facility to consider the safety and appropriate supervision of children in planning the transportation to and from recreational activities, and to consider the appropriateness of the activity. The facility shall develop guidelines specifying levels of supervision. These shall consider such factors as: a child's developmental level, level of maturity, kinds of activities in which a child may participate, and methods by which a child may receive increased or decreased supervision. The guidelines will be explained to a child upon entry and will be posted for review by staff, children, and DHR. Refer to Physical Facilities: Swimming Pools (Section VI-C.) for safety standards if the facility has an on-site swimming pool. Any facility staff who provides transportation shall have a valid driver's license and a copy of the license shall be on file with the facility.

- g. Residential child care providers shall permit a child in their care to hunt only if they have obtained written permission of the institution, agency, or individual holding custody. Permission for a child in the temporary custody of DHR to hunt shall be granted only by parents or the court. If the child is in the permanent custody of DHR, permission shall be obtained from the court. If the court grants permission, the court order or other written statement provided shall be filed in the case record and a copy sent to the foster care provider. If a parent is the party granting permission, a written statement shall be signed with the original filed in the record and a copy provided to the parent and residential child care provider.

Code of Alabama § 9-11-44.1 requires persons sixteen (16) years of age or older to present certification of completion of an approved hunter education course prior to obtaining a hunting license. Hunter education courses are offered statewide at each County Extension Services Office. In addition, the Division of Wildlife and Freshwater Fisheries Offices offer these courses in certain counties. The county DHR may contact the Department of Conservation and Natural Resources, 1-800-245-2740, for more information.

- 12. Off-Campus Employment/Participate in an Internship
 - a. Youth age 14 years and older in foster care should be appropriately encouraged and supported when pursuing employment as long as it does not interfere with their academic progress regardless of their placement. Employment by teens in foster care, either part-time or during the summer months, will provide youth with opportunities to learn independent life skills and acquire hands-on experience, while also allow them to earn spending money. Federal and State rules regarding young workers are designed to strike a balance between ensuring sufficient time for educational opportunities and allowing appropriate work experiences.
(Alabama Department of Labor)
 - b. RPPS allows for placement providers to assist foster children with obtaining employment by youth age 14 years and older in accordance with the Fair Labor Standards Act (FLSA). Initial employment by teens should be used to provide instruction and guidance related to budgeting and money management without placing grownup expectations on their income. Foster care youth should have primary input related to the use of these funds. Placement providers cannot require any type of payment from foster children's employment income without collaboration and approval of the ISP team.
 - c. Youths in all foster care placements should also be offered the opportunities to participate in available internships, community service and volunteerism. These activities are perfect for helping youth develop a sense of value, creativity, and empowerment when they are willing to give of their time. Youth should be encouraged without being forced or coerced into service projects. An agreeable partnership within the ISP team should be reached to arrange for suitable transportation of youth involved in these activities.

d. Exceptions may be made in shelter care placements.

13. Grievance Process for Children

- a. Each facility shall develop specific grievance policies and procedures for implementation. Copies of each shall be provided to each child in care and their families.
- b. Grievance procedures shall be activated upon the request of the child or the child's family and continue until a resolution is obtained. The grievance requests and procedures taken shall be documented in the child's file. Documentation of this grievance and resolution shall be placed in the child's file and the grievance shall be reported to the legal guardian and/or agency having primary planning responsibility.

14. Spiritual Development

The County DHR shall take into consideration the religious affiliation of the children and their parents when children are placed in a residential child care facility. The residential child care providers shall be informed about the children's involvement in prior and present religious services and activities. When children are placed within close proximity to their home, they may be able to continue participation in the same services and activities with a family member or friend unless specified in the ISP. Children may attend the services and activities of the residential child care provider or other religious denominations with agreement from their parents, who retain the residual right to determine religious affiliation. It is always helpful to use the ISP team's expertise as the choices are made.

15. Marriage

If a child in the Department's custody under the age of eighteen years wants to marry, and has not been previously married, parental or a guardian's consent is required (Code of Alabama, 1975 § 30-1-5). The judge of probate must require the parents' or guardians' consent be given either personally or in writing. DHR is not allowed to provide consent to marriage. However, a judge of probate may in unusual circumstances designate the Department to give consent to marriage.

C. Travel

1. Out of County Travel with an Out-of-Home Care Provider

The residential child care facility provider shall notify DHR when the provider desires to take a child out of the county or on an over-night trip. Any trip out of county in excess of three days must have DHR approval. The information outlined above shall be obtained prior to approval.

2. Out of State Travel with an Out-of-Home Care Provider

For children in the temporary and permanent custody of the Department, all out-of-state visits/trips, regardless of duration, must have the approval and concurrence of the County Director.

3. For children in the temporary custody of the Department, travel out-of-country should be approved by the child's parent if the child's parent (s) are actively involved in the ISP process. If the child is in the permanent custody of the Department, then the County Director must determine if it is safe for the child to travel to the out-of-country destination and if it's in the child's best interest.
4. Out of State travel customarily requires the Governor's Office approval; however, the Governor's Office has issued a blanket approval for out-of-state travel for foster children in certain circumstances. The blanket approval provides an expedited process to allow children to have opportunities for recreation, education, or other activities as described. The following circumstances do not require the approval of the Governor's Office.
 - Foster parents and/or foster children are not traveling in the service of the state.
 - All expenses are paid by other entities with no costs to State or County DHR.
 - County Department of Human Resources has received SDHR approval by telephone with written confirmation

VI. PHYSICAL FACILITIES

A. Construction and Design

Buildings shall be built, remodeled, or acquired with consideration of the service and program to be offered and children to be accepted. Specifically, designated areas shall be provided for sleeping, bathing, dining, informal living and office. The building shall be accessible to persons with disabilities in accordance with Americans with Disabilities Act Accessibility Guidelines (ADAAG) or Uniform Federal Accessibility Standards (UFAS).

B. Ordinances and Codes

1. Zoning Approval

- a. Prior to being issued a license, six-month permit, or approval, the applicant for the facility shall submit to the Department a written statement of compliance with applicable zoning requirements.

2. Fire Inspection

- a. Prior to being issued an initial or renewal license, six-month permit, or approval, the applicant for the facility shall submit to the Department a written fire inspection report with no violations cited. Subsequent inspections may be requested by the licensee, member of the Board of Directors or by the Department of Human Resources. Copies of such inspection reports shall be submitted to the Department.

3. Health Inspection

- a. Prior to being issued a license, six-month permit, or approval, the applicant for the facility shall submit to the Department a written Health Department inspection report.
- b. Subsequent inspections may be requested by the licensee, member of the Board of Directors or by the Department of Human Resources. Copies of such inspection reports shall be submitted to the Department.

C. Grounds and Furnishings

1. Attractive, well-kept grounds with sufficient outside play space shall be provided.
2. Play space and equipment shall be safe, functional, and available for the recreational program involving all children in the child care facility.
3. All buildings shall be equipped with furnishings that are sufficient to sustain the basic function of the building, adequate in condition, attractiveness and durability, and appropriate to the age and size of the children who will be using the building.
4. All child care facility on-site swimming pools shall be completely enclosed by a barrier on all four sides of at least four feet in height. The barrier may consist of a house plus a fence on the remaining three sides or a four-sided fence. Openings in the fence shall not permit the passage of a 4-inch diameter sphere. All access through the barriers must have one of the following safety features: key lock, self-locking doors or a bolt lock. When the fenced-in pool area is not in use, all entry points must be locked. When the above ground pool is not in use, steps or ladders leading to it must be removed. The fenced-in pool area cannot be used as a play area for children.
 - a. When children are using the fenced-in pool area, apply the following:
 - Non-swimmers shall not be allowed in the pool without a life jacket or approved flotation device, unless the non swimmer is participating in a supervised swim lesson.
 - Direct supervision by a person certified in Basic Water Safety shall be required at all times when children are using swimming pools and in the fenced-in area.
 - b. A certificate or other documentation of successful completion of a basic water safety course is required for the facility staff if the facility has a pool or is located on a site adjacent to bodies of water. This certification or other documentation of successful completion of basic water safety instruction is required before children are allowed to use the pool.
 - c. Swimming pools must be equipped with a ring buoy, rescue tube,

or other appropriate flotation device with an attached rope of sufficient length to cover the pool. The facility must develop rules governing pool use. Rules must be posted and reviewed with each child. Basic pool safety rules should include the following:

- Running or boisterous play is not allowed in the fenced-in pool area.
- Glass articles, sharp metal objects and other hazardous objects are not allowed in the fenced-in-area.
- No jumping or diving from the slide is allowed; slide feet first and only after previous sliders have cleared the area.
- Only one (1) person at a time will be allowed on the diving board; diving will not be allowed until the previous diver is out of the diving area.

d. Safety precautions must include:

- Depth markers
- Life lines
- Ladders or steps in the deep and shallow ends
- Proper use of storage of chemicals. Chemicals when not in use are to be stored in locked areas.

D. Living Unit Accommodations

1. religious units shall accommodate groups not to exceed 10 children per living unit, but with a maximum of two living units in a single building.
2. Bathroom and Sleeping Area
 - a. Two children per bedroom are recommended, but there shall not be more than 3 children per bedroom.
 - b. There shall be no more than one child per bed.
 - c. All bedrooms and living units shall be as near the ground floor as possible, and in no case shall they be located above the second floor.
 - d. In living units, bedrooms shall have a minimum of 8 foot ceilings, with a minimum of 70 square feet of floor space, in addition to closet space, per child.
 - e. Bedrooms shall have windows. The bedroom windows shall be standard window size.
 - f. Bedrooms shall be comfortable and attractive, assuring the maximum amount of privacy. There shall be a single, sturdy, comfortable bed with good mattress. Appropriate linens and covers shall be provided for each child.
 - g. Sufficient space for clothing and personal belongings shall be provided for each child.
 - h. There shall be at least one tub and/or shower, one toilet and one lavatory with hot and cold water for each five children. Where there is more than one of these in a particular area, each shall be located in a separate compartment. All bath and toilet facilities shall be well lighted and well

ventilated and heated. Bathrooms required to be accessible must meet all accessibility requirements in accordance with Americans with Disabilities Act Accessibility Guidelines (ADAAG) or Uniform Federal Accessibility Standards (UFAS).

E. Ventilation, Heating, Cooling, Lighting and Telephones

1. Adequate ventilation shall be provided in all areas of the facility.
2. Screens shall be provided for all windows unless the building is totally air-conditioned.
3. Adequate heating and cooling shall be provided in the living and sleeping areas of all buildings.
4. A telephone shall be provided in every living unit, cottage and administrative building.

F. Isolation and First Aid Supplies

1. Any person suffering from a communicable disease in the infectious stage shall, upon medical advice, be excluded from other members of the facility who have not been infected, or excluded from employment, if a member of the child care staff.
2. First Aid supplies for minor cuts and abrasions shall be available in each building.

G. Medicines, Drugs, Firearms

1. Dangerous equipment and harmful substances unnecessary for the operation of the facility should not be kept on the premises. All necessary but dangerous equipment, toxic substances, and medications shall be kept out of the reach of the residents.
2. All medicine, drugs, and hazardous chemicals shall be kept in locked cabinets, inaccessible to the children, and removed from the premises when no longer being used. Medicine and drugs shall be stored separately from hazardous chemicals.
3. All firearms and ammunition shall be kept in locked cabinets and shall be inaccessible to the children.
4. The grounds shall be free from anything that constitutes a danger or hazard, such as: abandoned automobiles, household appliances and uncovered wells and cisterns; stacked lumber with exposed nails; explosives; and dangerous or unvaccinated animals.

H. Child Care Staff Quarters

1. Living quarters for a live-in staff member shall be located in close proximity to the sleeping area of the children. In a two story building, or in a split-level building, staff sleeping quarters shall be located no more than one level removed from the sleeping quarters of the children.
2. Staff shall have bathroom facilities separate from the ones used by the children. One common, accessible bathroom may be used by staff and

children with physical disabilities.

I. Safety Plan

1. The facility shall develop a fire evacuation plan and a plan that will be implemented in the threat of a natural disaster (such as a tornado warning). Routine drills to practice the plans will be conducted. Each child shall be advised of the plan upon entering care.

VII. STANDARDS APPLICABLE TO SPECIFIC FACILITY TYPES

A. Group Home Care

The general requirements pertaining to the care of the children prescribed under other sections of these standards shall be followed in all applicable respects. In addition, there shall be compliance with the following special regulations pertaining to group home care.

1. Executive Qualifications
 - a. In group homes that are an affiliate and an integral part of a parent child care institution or agency as well as those that are unrelated to a parent child care institution or agency, the person employed as executive or supervisor of the facility shall have at least the following qualifications:
 - A baccalaureate degree in the field of social work, psychology, administration, or a related field, from a college or university accredited by one of the six regional accrediting associations of the United States.
 - Two years of prior experience in working with children and youth and/or on-the-job training in another child care facility.
2. Physical Facilities
 - a. Sleeping Area
 - Bedrooms in facilities constructed or acquired prior to January 1, 1975 shall not accommodate more than four children each. Facilities constructed, purchased, structurally remodeled or acquired after January 1, 1975, shall have bedrooms which accommodate no more than three children each, but two children per bedroom is recommended. Each child shall have their own bed.

B. Maternity Centers

Maternity homes providing a program for maternity care with referral for hospital and medical services obtained from the community shall be approved by the Department of Human Resources upon meeting the standards set herein.

The general requirements which pertain to the care of children prescribed under other sections of this document shall be followed in all applicable respects and, in addition, there shall be compliance with the following special regulations pertaining to the care of

minor pregnant girls.

1. Social Services

- a. Each girl shall receive social services on a weekly basis.
- b. Social services shall be available also in case of emergency.
- c. Services shall be extended to the putative father and to the parents of the girl, when indicated.
- d. Each girl, individually and/or in a group, shall be encouraged and given the opportunity to focus and participate in the following:
 - Resolving her conflicts, confronting the reality of her situation, and handling the immediate problem of unmarried parenthood
 - Counseling regarding the decision-making for the unborn child
 - Preparation for return to community life
 - Participation in an educational program specific to her own needs; i.e. High School, G.E.D., Vocational Training, Junior College, etc.

2. Legal Services

- a. The decision for the final plan for the baby shall be made by the baby's mother. A minor pregnant girl shall not be required to sign a statement committing herself to any definite plan for her child as a condition of admission to the center.
- b. Girls who wish to place their children for adoption or in foster family homes shall be referred to the Department or to a licensed child placing agency.
- c. The social service staff shall seek legal counsel with respect to problems relating to the legal rights of the minor pregnant girl and her obligations to her child, including relinquishments, termination of parental rights, legitimization, birth certificate, and other legal matters pertaining thereto; including all legal rights of the natural father.
- d. Any minor who is fourteen years of age or older, or has graduated from high school, or is married, or having been married is divorced, and is pregnant, may give effective consent to any legally authorized medical, dental, health or mental health services for herself and the consent of no other person shall be necessary. (Title 22, Chapter 8, §§4, Code of Alabama 1975.).
- e. Any minor who is married, or having been married is divorced, or has borne a child may give effective consent to any legally authorized medical, dental, health or mental health services for himself or his child or for herself or her child. (Title 22, Chapter 8, §§ 5, Code of Alabama 1975).

3. Medical Services

- a. At the time of admission there shall be a medical and obstetric history.
- b. Immediately following admission, a complete assessment must be obtained from a licensed medical doctor along with all test results as prescribed by the doctor which may include blood pressure determination, weight, urine analysis, laboratory test for syphilis and gonorrhea, determination of hemoglobin, red and white blood cell count, and any other special studies which may be indicated.
- c. A dental examination shall be made and necessary treatment provided by a licensed practicing dentist.
- d. Periodic examinations and laboratory tests shall be performed according to the schedule of the ob/gyn physician.
- e. Each girl shall be referred for and receive follow-up postnatal care as prescribed by the ob/gyn physician.
- f. A postnatal examination shall be made by the licensed practicing ob/gyn physician before discharge from the maternity center.
- g. The center shall have written agreements with clinics and hospitals utilized for obstetrical and related services.
- h. Authorization for hospitalization may be signed by a parent, guardian, or an agency holding temporary or permanent custody, or as otherwise provided by law.

4. Physical Facilities

a. Bedrooms

- Bedrooms shall be comfortable and attractive, assuring the maximum amount of privacy for each girl. There shall be a single bed with good mattress and springs and appropriate linens and covers for each girl.
- No more than two girls shall share one bedroom. It is preferable for each girl to have a room alone.
- Cribs for infants shall have slats no more than 2 3/8 inches apart. There shall be a crib for each infant. The crib mattress shall fit snugly against the slats. Pillows, soft toys, blankets, and loose sheets should not be in the crib with an infant. A crib that is known to be painted with paint containing lead shall not be used.

b. Bathrooms

- There shall be at least one toilet, one shower, and one lavatory for each four girls. Each toilet and shower or tub or tub-shower combination shall be located in a separate compartment. Where showers generally are used, one tub shall be available.
- Separate toilets and lavatories shall be available for staff and visitors.

C. Shelter Care Facilities

The general requirements pertaining to the care of children prescribed under other sections of these standards shall be followed in all applicable respects. In the following area, exception to prescribed standards may be permitted:

1. Admissions

- a. A child of any age shall be permitted admission to shelter care as permitted by the facility license.
- b. The local Department of Human Resources shall be contacted about all children admitted to shelter care (unless the child is admitted by the Department of Human Resources) so that files can be cleared to determine whether the child is known to the Department or is in need of services. The contact shall occur either immediately during office hours, or at 8:00 a.m. the next morning, weekends and holidays included. It shall be permissible for those shelter care facilities that have social services, or other social service agencies serving families and children, to provide social services to runaways.
- c. Placement in a shelter is meant to be short term. Children admitted through agencies other than DHR shall have an assessment conducted at admission to give guidance regarding the possible length of stay and to identify the short-term plans while the child is in shelter. The shelter stay shall not exceed 30 days without the mutual agreement of the agency or person with planning responsibility and the parents, legal custodian, or agency having custody as documented in the child's Care/Treatment Plan and/or ISP.
- d. The child's record shall include
 - Child's Record Sheet for Shelter Care Facility (See appendix for a copy of BFC-809; an alternate for providing the same information is acceptable)
 - Copy of legal authorization for placement

2. Clothing

- a. When clothing is provided by the shelter facility it shall be clean and in good condition.
- b. To the maximum extent possible, the child shall be allowed a choice in his/her clothes, and the clothes must be fitted to the child.

3. Medical Care

- a. Any child who needs immediate medical or dental treatment shall be referred to a licensed practicing physician or dentist for examination, and appropriate treatment shall be provided.
- b. Financial responsibility for the provision of medical care shall rest with the person or agency holding legal custody and such person/agency shall be notified of the provision of medical services.

4. Separation of Living Units

- a. Where shelter care is offered as one part of the program of a child care facility, a separate cottage or wing of a living unit shall be used exclusively for shelter care. Living groups in the general program shall not be disrupted by receiving children for short-term care.
- b. Group size shall conform to regulations as set out in Section V Physical Facility.
- c. Where the facility offering shelter care provides an auxiliary program beyond the regular shelter care period, both services can be in the same living unit. There shall be separate bedrooms for use by each program. The age range of children served in both programs shall be the same. The executive shall request prior approval in writing from the Department when it is desired to provide two programs in the same living unit. A copy of the approval shall be on file in the facility and with the Department.

5. Sleeping Area

- a. Bedrooms shall accommodate no more than four children each, unless the children in care are siblings, in which case, up to five children may be accommodated.
- b. Children shall have their own beds.
- c. In rooms containing only cribs for infants there shall be a minimum of 2 feet of floor space between each crib. Cribs shall have slats no more than 2 3/8 inches apart. There shall be a crib for each infant. The crib mattress shall fit snugly against the slats. Pillows, soft toys, blankets, and loose sheets should not be in the crib with an infant. A crib that is known to be painted with paint containing lead shall not be used.

6. Bathrooms

- a. There shall be at least one toilet, one lavatory with hot and cold water, and one tub and/or shower for each 6 children. Where there is more than one of these in a particular area, each shall be in a separate compartment. Where showers generally are used, one tub shall be available for use if needed.

7. Staff Requirements

- a. The shelter care facility shall have a ratio of no more than ten (10) children for a two child care staff, and no more than eight (8) children under direct supervision of one child care worker. Children of the staff shall be included in determining the staff/child ratio. Exception: During the hours of 10 PM to 7AM, the ratio of child care workers to children shall not be less than one child care worker on duty for each 10 children.
- b. Staff ratios shall be maintained in accordance with the number of children actually in care rather than in accordance with the maximum capacity. However, at least one female child care worker

shall be on duty at all times unless the shelter accepts males only.
c. If the needs of the children to be served require shift coverage by child care staff, an exception to the staff/child ratio may be requested. The executive shall request prior approval in writing from the Department as to the length of shifts and the proposed staff/child ratio. A copy of the approval shall be on file in the facility and with the Department.

D. Adjunct Programs

The general requirements that pertain to the care of children prescribed under other sections of these standards shall be followed in all applicable respects. Requirements under V Physical Facilities, shall not apply, except that statement from Fire and Health officials shall be on file in the facility and with the Department.

1. The executive shall request prior approval in writing from the Department to operate an adjunct program. A copy of the letter of approval from the Department shall be on file in the facility and with the Department.
2. A child in care who participates in an approved adjunct program shall retain his/her placement in the regular child care facility.

VIII. LICENSING

A. Application and Procedure for a License

1. Application for a License (See Section 38-7-4, Code of Alabama 1975)
 - a. Any person, group of persons or corporation may obtain an application form for a license to operate a child care facility by contacting the Department of Human Resources by letter, telephone or scheduled visit.
 - b. Applications for a license shall be made on a departmental approved form and shall contain all information requested on that form including social security number if the applicant is an individual.
 - c. With the application form, an applicant is provided a copy of *Minimum Standards for Child Care Facilities: Principles, Regulations and Procedures* and an Information Form. (See Appendix.)
 - d. The completed application must be returned to the Department within 30 days from the date of inquiry if such person, etc., wishes to pursue his/her plan to operate a child care facility or if such person is already operating a child care facility illegally (without a license).
2. Examination and Investigation of Application
 - a. Upon receipt of the completed application, a representative of the Department of Human Resources will examine the premises proposed for the child care facility and will investigate the person(s) responsible for the facility.

- b. The examination and investigation will be based on the minimum standards and regulations as prescribed and published by the Department. Compliance with standards will be noted on the Information Form by the applicant as the information becomes available.
3. Disposition of the Application
 - a. When minimum standards for the operation of a child care facility have been met, a permit or license will be issued by the Department.
 - b. If denial of a license is indicated, the Department will notify the applicant, verbally and in writing, of the decision, pointing out and discussing those areas of the minimum standards which have not been met.
4. 6-Month Permit
 - a. If specific areas of the minimum standards are identified as lacking in the basic services of the child care facility, and if the applicant can demonstrate or document that in good faith he/she is taking action towards full compliance with the regulation, the Department may issue a 6 Month Permit to persons making initial application for a license to allow the child care facility reasonable time to become eligible for a full license.
 - b. Issuance of a permit implies that the Department approves the child care facility's temporary operation without said child care facility's having fully met all requirements.
 - c. The Department's decision to issue a 6-Month Permit shall be after the child care facility or licensee has met the following requirements:
 - Written statements of approval from the fire and health departments.
 - Sufficient staff, with references and medicals, to comply with the staff/child ratio.
 - Provisions for social services.
 - Satisfactory plan for food preparation and service.
 - d. One renewal of a 6-month permit may be issued at the discretion of the Department.
 - e. A full license will be issued when the Department determines that all standards have been met.
5. 6-Month Permit - Alternative to Revocation
 - a. Within the licensure period, the Department may issue one 6-Month Permit on a provisional basis to a licensed child care facility found to be out of compliance with the Department's minimum standards where such non-compliance does not represent a hazard to the health or safety, or physical, moral or mental well-being of the children in care.

- b. During this six-month period, the child care facility shall correct the items which were in non-compliance and report the corrections to the Department for determination of eligibility for a full license.
 - c. The child care facility must voluntarily surrender its full license before the Department can consider the issuance of a 6-Month Permit as an alternative to revocation.
6. Renewal of a License
- a. Application for renewal of a license to continue operating a child care facility shall be made to the Department two months prior to the expiration date of the current license, and on the forms prescribed by the Department
 - b. An updated Information Form shall accompany the application.
 - c. The Department shall re-examine and re-evaluate every area of the facility included in the initial application process.
 - d. A renewal of a license shall be issued, if, upon re-examination, the Department is satisfied that the child care facility continues to meet and maintain minimum standards prescribed and published by the Department.
7. Department Visits, Inspections and Consultation
- a. Visits to the child care facility are made by representatives of the Department to determine continued conformity with minimum standards and to provide consultative services.
 - b. Visits to the child care facility are made by representatives of the Department to inspect and to determine if minimum standards are complied with and to investigate a complaint made against the facility. Such visits shall be made without prior notice.
 - c. The licensee may request visits of a representative of the Department for consultation, etc.
 - d. The licensee shall have the opportunity to submit, in writing, information regarding complaints alleged against him and/or the child care facility, and shall have the opportunity for a full discussion about such complaints.

B. Corrective Action

1. If an inspection/evaluation indicates non-compliance with the minimum standards, or the situation warrants, 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
 - the signature of the Department's representative and the licensee/facility representative.

2. If the licensee fails or refuses to comply with the corrective action plan, the Department may initiate adverse action such as suspension or revocation of the license/permit/approval.

C. Revocation of a License (See Section 38-7-8. Code of Alabama 1975)

1. The Department may revoke or refuse to renew a license of any child care facility or refuse to issue a full license to the holder of a 6-Month Permit, should the licensee or holder of a 6-Month Permit fail to comply with the following:

- a. Maintain standards prescribed and published by the Department.
 - b. Violate the provisions of the license issued.
 - c. Furnish or make any misleading or any false statements or report to the Department.
 - d. 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 cases unless it has made written demand on the person, firm or corporation operating the facility requesting such report(s) and such person, firm or corporation fails or refuses to submit such reports for a period of ten days.
 - e. Submit to an 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 premises established or used for child care as required by any law, regulation or ordinance applicable to such facility.
 - h. Display its license or permit.
 - 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 experiences and other essentials in the proper care, rearing and training of children.
2. If a routine inspection or an inspection conducted in response to a complaint or conducted for any other reason by the Department discloses any condition, deficiency, dereliction or abuse which is, or could be, hazardous to the health, the safety, or the physical, moral, or mental wellbeing of the children in the care of the child care facility being inspected, the Department shall have the power to revoke without notice the license or approval or 6-Month Permit (See Section 38-7-11, Code of Alabama 1975).

D. Provisions of the License

1. Licenses issued by the Department to child care facilities are valid for two years from the date of issuance, unless revoked by the Department or

voluntarily surrendered by the licensee.

2. The number of children in the child care facility shall not exceed the number specified on the license except in the case of a shelter care facility.
3. The age range of children served shall not vary from the limits specified on the license.
4. The license is not transferable from one individual or group or corporation to another, or from one building to another.

E. Penalty for Unlicensed Facilities

1. If the Department representative determines, through investigation, that any person, group of persons or corporation is, or has been operating an unlicensed child care facility, the results of the investigation shall be reported to the Attorney General and to the appropriate District Attorney for prosecution. (Section 38-7-10, Code of Alabama 1975.)
2. Filing of the report may be delayed for a period, not to exceed 60 days, to allow the person, group of persons or corporation reasonable opportunity to apply for a license or 6 Month Permit. (See 38-7-10, Code of Alabama 1975.)
3. Any person, group of persons, association or corporation who conducts, operates or acts as a child care facility without a license, or a 6 month permit or an approval. . . . is in violation of the provisions of the Child Care Act of 1971 or if any person, etc. violates any other provision of said Act 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 fine and imprisonment(Section 38-7-16, Code of Alabama 1975.)

IX. HEARINGS

A. Pre-revocation Hearing

1. Purpose
 - a. If the Department makes the decision to revoke or refuse to renew the license, approval or six-month permit, a pre-revocation hearing must be held.
 - b. The purpose of the pre-revocation hearing is to provide sufficient opportunity for the licensee/permit or approval holder to show why the action of revocation should not be taken.
2. Notice
 - a. The notice of the pre-revocation hearing will be sent to the licensee/permit or approval holder by certified mail unless waived. The pre-revocation hearing will be held either in the County Department or the State Department in Montgomery with the licensee/permit or approval holder and staff members of the Department.

3. Location and Participants

- a. The licensee/permit or approval holder has a right to request the issuance of subpoenas to witnesses. The request must be received by the hearing officer no later than 10 days prior to the pre-revocation hearing.
- b. The hearing officer for the pre-revocation hearing will be a staff member of the State Department of Human Resources.
- c. The licensee/permit or approval holder must be present at the pre-revocation hearing unless the hearing officer excuses him for a specified reason. He may speak for himself or be represented by an attorney or other representative. An attorney for the Department may also be present.

4. Evidence

- a. The licensee/permit or approval holder may present written evidence or oral testimony and bring to the pre-revocation hearing members of his family, other persons and witnesses.
- b. The licensee/permit or approval holder and his representative have the right to review in the State Department or the County Department, as appropriate, at reasonable times prior to or during the pre-revocation hearing the case file and written material which will be placed on exhibit or in evidence by the Department.
- c. Certain confidential information such as child abuse and neglect records may remain privileged and not subject to disclosure or review.

5 Withdrawal

- a. If, after having received notice of the pre-revocation hearing, the licensee/permit or approval holder chooses not to have a pre-revocation hearing, he must notify the hearing officer verbally or in writing.
- b. The hearing officer will send a letter to the licensee/permit or approval holder confirming the cancellation of the pre-revocation hearing and advising him that the intended action will be taken.
- c. The decision not to have a pre-revocation hearing does not alter the right to a fair hearing following the action taken.
- d. During the pre-revocation hearing the hearing officer will hear testimony from the Department as to the specific findings upon which the intended revocation is based.
- e. Specific Minimum Standards that are not met will be cited by the Department.
- f. The licensee/permit or approval holder or his designated representative will be provided opportunity to present objections to the Department's intended action and to refute findings upon which the decision was based.
- g. The licensee/permit or approval holder should be given the

opportunity to voluntarily surrender the license or permit or to withdraw the application for renewal.

6. Decision

- a. The hearing officer will render a decision as to whether the intended action should be taken.
- b. If the license/permit/approval is to be revoked, the hearing officer will send a letter by certified mail, unless waived, to the licensee/permit or approval holder and his attorney, if any, stating the decision and citing specific Minimum Standards not met and supporting evidence.
- c. If it appears that the Department should take a different action, the hearing officer may recommend that the Department make appropriate stipulations, agreements, arrangements, etc.

7. Follow-Up Action

- a. The licensing authority will take the action specified and notify the licensee/permit or approval holder of the effective date. The Commissioner of the State Department of Human Resources is the licensing authority for all residential child-care facilities licensed by the Department.
- b. The pre-revocation hearing does not alter the right of the licensee/permit or approval holder to a fair hearing as provided in the Code, Section 38-7-9, if he/she is dissatisfied with the decision of the Department following the pre-revocation hearing. Notice of the right to appeal for a fair hearing must be sent to the licensee/permit or approval holder by certified mail.
Note: No pre-denial hearing is required to be held prior to the denial of an initial application for a license, six-month permit or approval.

B. Appeal for a Fair Hearing and Review

1. Reason for Appeal

If any of the circumstances listed below occurs, the aggrieved party may appeal to the Department for a fair hearing.

- a. License or licensee is denied an initial or renewal license to a facility requiring a license approval by the Department.
- b. License is suspended or revoked for a facility requiring a license approval by the Department.
- c. Application for a license is not acted upon with reasonable promptness.
- d. License approval required by this chapter is unduly delayed by this Department.

2. Right To Hearing

- a. Notice and opportunity for a fair hearing and notice of right to counsel shall be given the appellant by the Department.
- b. 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.

3. Filing Of Complaint

a. File 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.

b. All such complaints shall be filed within 30 days from the date of such final decision or action.

c. 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 herein above, and with the Department.

4. Hearing

a. Any party at interest may appear and present any relevant facts

b. Upon motion of either party or upon its own motion the court may at its discretion take additional evidence.

5. Decision

a. The decision or action of the Department on a fair hearing of any such appeal shall be final and binding and all parties shall comply.

b. 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.

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.)

X. REPORTS TO THE DEPARTMENT

A. Enrollment

1. DHR-BFC-610 -- This report shall be completed and submitted monthly.

It in on this form that the administrator shall advise the Department in writing of the number of staff's children living in the facility.

2. Enrollment reports, indicating the number and ages of children enrolled in the facility, shall be submitted to the Department upon written request from the Department.

B. Changes

The following shall be reported in writing to the State Department of Human Resources, Office of Licensure prior to occurrence:

1. Change in ownership (if a change in ownership occurs, the facility shall not continue to operate until the new owner applies for and is issued a license/permit/approval.

2. Change in location (if a change in location occurs, the facility shall not

continue to operate until a new license is applied for and a license/permit/approval is issued for the new location).

3. Change of the director of the facility.
4. Change of chief executive officer of the corporation or a member of the board.
5. Alterations to the facility or grounds.
6. Major change to the basic operating schedule or program.

C. Occurrence of Incidents

1. The incidents listed below shall be reported to the State Department of Human Resources, Office of Licensure within 24 hours after occurrence or the first work day following the occurrence, whichever is sooner

- any injury requiring professional medical treatment of any child or staff person while at the facility or away from the facility activities;
- any illness occurring at the facility or during away from the facility activities which requires emergency medical treatment;
- any death occurring at the facility or during away from the facility activities;
- major damage to the facility;
- any litigation involving the facility;
- any traffic accident involving facility children using transportation provided by the facility;
- any arrest or conviction of the licensee or any staff person;
- final disposition of any child abuse/neglect investigation involving the facility, the licensee, or any staff person
- any incident occurring which places the health, welfare, or safety of a child at risk.

2. A written explanation is to be provided to the Department within five (5) days.

D. Child Abuse/Neglect Reports

1. Any staff person is required by law (Code of Alabama 1975, §§26-14-1 through 26-14-13) to report known or suspected child abuse or neglect (see definition 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 (see appendix for copy of report, DHR 1593).

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 shall cooperate with Department personnel on any child abuse or neglect investigation, including providing information to workers and allowing access to children and records.

5. The Executive Director of the facility shall advise the State Department of Human Resources, Office of Licensure, about the report no later than the first work day following the alleged incident. In an investigation of a complaint of child abuse/neglect, the executive and staff shall cooperate in gathering facts relating to the allegations and shall make accessible to the investigation: all personnel, children, and records directly or indirectly associated with the complaint in line with State statutes.

APPENDIX

Representation of the Advisory Committee on Licensing Standards for Child Care Facilities

Advocacy Agencies and Organizations

Application for a License (DHR-DFC-740)

Information Form for Licensing Study (DHR-DFC-741)

Medical Report for Persons Giving Care to Children on CAN (DHR-DFC-737)

Request for Clearance of State Central Registry (DHR-DFC-1598)

License (DHR-DFC-743)

6-Month Permit (DHR-DFC-738)

Probationary Permit (DHR-DFC-1585)

Placement Agreement (DHR-DFC-824, Revised 3/00)

Inter-Agency Agreement (DHR-DFC-823, Revised 3/00)

Child's Medical Record-Foster Care (DHR-DFC-623, Revised 3/00)

Child's Record Sheet for Shelter Care Facility (DHR-DFC-809)

Report on Suspected Case of Child Abuse/Neglect (DHR-DFC-1593)

Monthly Population Report of Child Care Facilities (DHR-BFC-610)

**Representation on the Advisory Committee
for Licensing Standards for Child Care Facilities**

Agape, Inc.

Alabama Association of County Directors of Human Resources

Alabama Association of County Supervisors of Human Resources

Alabama Department of Education

Alabama Foster Parents Association

Alabama Residential Child Care Association

Alabama Sheriff's Ranches

Alabama State Fire Marshal

Catholic Social Services

Children's Aid Society

State Department of Mental Health/Mental Retardation

State Department of Public Health

WORK GROUP

Alabama Disabilities Advocacy Program

Alabama Residential Child Care Association Members

Baptist Children's Home

Big Oak Boys' Ranch

Childhaven, Inc.

Kings Ranch

Harris Home

United Methodist Children's Home

ADVOCACY AGENCIES AND ORGANIZATIONS
GENERAL FAMILY AND CHILD ISSUES

Alabama Family Ties
Location: 315 St. Luke
Montgomery, AL 36117
Mailing: PO Box 241225
Montgomery, AL 36124-1225

American Civil Liberties Union of Alabama,
Children's
Advocacy Project
P.O. Box 447
Montgomery, AL 36101
(334) 262-9254

EDUCATION ONLY

Special Education Action Committee
P.O. Box 161274
Mobile, AL 36616-2274
1-800-222-7322

EDUCATION AND DISABILITIES

Alabama Disabilities Advocacy Program
The University of Alabama
Box 870395
Tuscaloosa, AL 35487-0395
1-800-826-1675

CHILD ABUSE

Child Protect-Montgomery
1031 Ann Street
Montgomery, AL 36107
(334) 262-1220

National Resource Center for Child Sexual
Abuse
107 Lincoln Avenue
Huntsville, AL
(205) 534-6868

GENERAL - OTHER

Legal Services Corporation of Alabama
See Next Page

Legal Services of Metro Birmingham
See Next Page

Legal Services of North Central Alabama
See Next Page

Consortium on Quality Childcare Standards
Dr. Wanda Newell Washington, Director
770 Washington Avenue, Suite 226
Montgomery, AL 36104
(334) 353-1006

Alabama ARISE
207 Montgomery Street
Montgomery, AL 36104
(334) 832-9060

Voices for Alabama's Children
1 Retail Drive
Montgomery, AL 36110
(334) 213-2410

LEGAL SERVICES OFFICES

LEGAL SERVICES CORPORATION OF ALABAMA

LEGAL SERVICES OF NORTH CENTRAL ALABAMA

Huntsville Office
2000-C Vernon Street
Huntsville, Alabama 35805
Decatur Office

17 Vine Street NW
Decatur, Alabama 35601

Montgomery Regional Office
Central Office
500 Bell Building
207 Montgomery Street
Montgomery, Alabama 36104

Dothan Regional Office
161 South Oates Street
Dothan, Alabama 36301

Florence Regional Office
412 South Court Street
Florence, Alabama 35631

Gadsden Regional Office
802 Chestnut Street
Gadsden, Alabama 35901

Mobile Regional Office
601 Van Antwerp Building
103 Dauphin Street
Mobile, Alabama 36602

Montgomery Regional Office
600 Bell Building
207 Montgomery Street
Montgomery, Alabama 36104

Selma Regional Office

1114 Church Street
Selma, Alabama 36701

Tuscaloosa Regional Office
Suite 425 SECOR Bank Building
Tuscaloosa, Alabama 35401

**ALABAMA CONSORTIUM OF LEGAL
SERVICES PROGRAMS**

500 Bell Building
207 Montgomery Street
Montgomery, Alabama 36104

ADDENDUM

Resource Materials

Suggested Detailed Outline for Individual Case Records for Facilities That Do Not Have an Organized Plan

Suggested Guidelines for Dietary Services in Child Care Institutions and Group Homes

Report of Consulting Dietician

Recommended Procedures from the Health Department

Suggested Guidelines for Procedures for Universal Precautions

Suggested Guidelines for Handwashing

Suggested Guidelines for Safe Bedding Practices for Infants

Title 38, Chapter 7, Code of Alabama 1975 - The Child Care Act of 1971
Regulations and Procedures for Hearings on Pre-Revocation Denials and
Revocation of Licenses

SUGGESTED DETAILED OUTLINE FOR INDIVIDUAL CASE RECORDS FOR FACILITIES THAT DO NOT HAVE AN ORGANIZED PLAN

1. Social and Developmental History – In descending order

- a. Face sheet or PSD-213, Basic Social Services Information
- b. Application for services
- c. Family and child's history prior to admission (b and c may be contained in one sibling's case record with reference to it in the family section in each of the other siblings' case records)
- d. Any miscellaneous materials (e.g., photographs) that need to be preserved for which there does not appear to be a more appropriate section in which to file them.

2. Legal

- a. Court order regarding custody, or parental agreement requesting provision of foster care.
- b. Placement agreement
- c. If not covered by "a" above, court order specifying person or agency with authority to consent to routine and emergency medical and dental care, including surgery, or parental consent for same.
- d. Copy of birth certificate
- e. Copy of Social Security card
- f. Any consent for out-of-state trips, use of photograph, etc.
- g. Any child abuse and neglect reports and records of investigation and disposition made while the child is in care.
- h. Any petitions to or orders from a juvenile court concerning the child while in care

3. Financial

- a. Agreement of parents to pay board.
- b. Award authorization for boarding fee by the Department
- c. Award authorization by federal government: Social Security; Veterans' Administration; Champus; etc.
- d. Certification form signifying that child is eligible for inclusion under a contract, i.e., Title XX of Social Security Act.
- e. Current Medicaid eligibility card
- f. Insurance policies
- g. Record of child's opening and maintaining a savings account

4. Medical and Dental

- a. Chronological record of child's illnesses, injuries, care given by doctors and dentists, medications, and hospitalizations while the child is in care.
- b. Immunization record

- c. Copies of all physical examination reports on appropriate forms

5. Psychiatric and Psychological

- a. Reports of examinations made by psychiatrists and psychologists
- b. Reports of neurological examinations
- c. IQ tests administered by psychometrists

6. Education

- a. Copies of report cards
- b. Notices from the school of any lasting importance
- c. Reports if tested for ADD or learning disabilities

7. Visitation

- a. List of persons related and unrelated who should or should not be allowed visitation rights.
- b. Chronological record of visits by the child to the family or by the family to the child, and an assessment of the effects of such visits.
- c. Chronological record of visits by the child in the home of an approved family made on the basis that the child is a foster child.

8. Summaries and Care/Treatment Plans

- a. Initial care/treatment plan
- b. Summaries on the development and adjustment of the child while in care since the last evaluation of the care/treatment plan
- c. Summaries on the development and adjustment of the child's family since the last evaluation of the care/treatment plan
- d. Periodic evaluations of the care/treatment plan

9. Correspondence

- a. Correspondence - chronological order with latest material on top
- b. Correspondence relative to a family as a whole may be contained in one sibling's case record with reference to said correspondence in this section of each sibling's case record.

SUGGESTED GUIDELINES TO DIETARY SERVICES IN CHILD CARE INSTITUTIONS AND GROUP HOMES

Standard A - Nutritional Requirement

1. Nutritious, appetizing foods shall be provided in the variety and amounts necessary to meet the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

Standard B - Menus

1. The menu pattern shall be:

Breakfast

Juice

Protein source such as eggs, cheese, peanut butter, meat

Bread and/or Cereal

Milk

Lunch and Dinner

Protein rich sources

Vegetables and/or fruit

Bread

Milk

It is recommended that this meal plan include a vitamin C food each day, vitamin A food twice a week, and several foods containing iron each day.

When sack lunches are provided, the lunch menu pattern should be followed.

2. Menus shall be planned at least one week in advance, and shall be dated, and kept on file for one year.

3. In menu planning, provisions shall be made for religious, ethnic and cultural difference of the children served.

4. The planned menus shall not be the same for the noon and evening meals of the same day, and shall not be repeated within the same week.

Standard C - Meal Service

1. At least three (3) meals a day shall be served at regular intervals except when children receive their morning and/or noon meal(s) at school.

2. Times of meals should be posted

3. No more than fourteen (14) hours shall lapse between the evening and morning meals.

4. Handwashing is strongly encouraged before eating.

5. Nourishing between meal snacks shall be provided and may be part of the daily food needs, but they shall not replace regular meals. Such snacks shall be recorded on the menu.

6. Table service shall be provided for all those capable of eating at the table in a manner to best serve the interest of the children. Tables seating not more than eight (8) children and one staff member are recommended.

7. Children and staff members who eat with them shall be served the same food

unless texture of the foods or special dietary needs prohibit the same foods.

8. Special times shall be set aside so that meals are not hurried. Mealtime should be a happy, social experience with time allowed for conversation and relaxed eating.

9. Children who have not had opportunities to learn how to handle food with the usual table service shall be treated in such a way that they will not be embarrassed or subjected to the ridicule of other children. Proper table manners should be stressed.

10. Children shall not be deprived of food as punishment.

Standard D - Food Purchasing and Production

1. All food shall be procured from sources approved by the consultant dietitian, or from sources approved or considered satisfactory by federal, state or local authorities.

2. Cool drinking water from a source approved by the Health Department shall be available to the children at all times.

3. Only US Government inspected meat shall be served to the children.

4. All pasteurized milk and milk products utilized in the facility shall be obtained from sources approved by the State Board of Health.

5. Foods shall be prepared by appropriate methods that will preserve their nutritive value and enhance their flavor and appearance.

6. Raw fruits and vegetables must be washed before use.

7. Methods of food processing within the facility (canning, freezing, preserving, etc.) shall be under the supervision of the consultant dietitian.)

8. Raw meat and poultry must be prepared on a surface that can be washed and sanitized to prevent cross contamination.

Standard E - Food Storage

1. All dry food supplies must be stored in securely covered containers.

2. All perishable food items shall be kept refrigerated except during the time of preparation and service.

3. Each refrigerator shall have a thermometer to show that the food is maintained 40 degrees Fahrenheit or below.

4. All foods stored in the refrigerator shall be appropriately covered and dated.

5. Raw meat should be stored on the bottom shelf to prevent contamination of other foods if fluid drains from the package.

Standard F - Sanitation

1. The facility shall have kitchen and dining areas adequate to meet food service needs. These areas are to be properly ventilated, and arranged and equipped for sanitary refrigeration, storage, preparation, and serving of food as well as for dish and utensil cleaning and refuse storage and removal.

2. Handwashing facilities, including hot and cold water, soap, and approved sanitary towels or other approved hand-drying devices shall be provided near the work areas. The use of disposable, single use towels is encouraged.

3. Dishwashing shall follow sanitary methods according to written procedures developed by a registered dietitian.
4. All rooms in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be kept clean and free of litter, flies, vermin, rodents, and other contamination. The floors, walls, shelves, tables, utensils, and equipment shall be of such construction as to be easily cleaned, and shall be kept clean and in good repair.
5. Insect and rodent control shall be applied in a safe, cautious manner to avoid poisonous or toxic contamination to human beings.
6. Compounds harmless for human consumption shall be substituted for all poisonous or toxic compounds whenever possible. Poisonous and toxic compounds, when not in use, shall not be kept in the kitchen or food preparation areas. Such items shall be safeguarded and not stored with food items.
7. All garbage shall be kept in covered containers.
8. An appropriate fire extinguisher or system shall be in the kitchen area and shall be inspected and dated yearly.
9. Written reports of all sanitary inspections by municipal, county, state or federal authorities shall be kept on file at the facility.

Standard G - Food Service Worker

1. Food service workers are those persons whose responsibility is the direct purchasing, preparation and storage of food and who may oversee the mealtime experience. These persons are known variously as food service directors or cooks. This person may be the child care worker in the facility.
2. There will be no spitting or smoking in the food service areas.

Standard H - Consultative Services

1. When food services are not directed by a registered dietitian, there shall be frequent, periodic consultation with a registered dietitian.
 - a) There should be a signed contract or agreement stating the registration number, the responsibilities, the minimum amount of time expected, and the fee of the consultant dietitian.
 - b) A written report of the observations and recommendations of the consultant dietitian shall be filed and maintained for one year.
 - c) An evaluation process shall be established to determine the extent of enforcement of such recommendations.
2. Frequency of consultation service provided in the facility shall be dependent upon and not exclusive of, the following factors:
 - a) the number of children in the facility;
 - b) the turnover rate in the facility;
 - c) the nutritional status of children in the facility;
 - d) the capabilities of the food service personnel in the facility; and
 - e) the physical layout of the facility.
3. Documented evidence of a nutritional assessment shall be made a part of the

child's permanent record except for those children in the shelter care facility.

4. In-service training shall be given to appropriate personnel to include at least basic nutrition, food preparation and safety, sanitation (including handwashing) and purchasing.

5. Counseling shall be provided on special diets and feeding problems as such situations arise.

REPORT OF CONSULTING DIETITIAN

Name of Facility _____ Date _____

I. Staff Development (In-service or on-the-job training)

Note date, subject matter, personnel included, person conducting training.

II. Progress since last report

Note whether recommendations were followed or whether problem resolved in some way. If not resolved, note new interventions.

III. Observations with Recommendations

- Menus
- Food Preparation
- Sanitation
- Equipment
- Purchasing and Cost Control
- Personnel
- Safety
- Nutritional Assessment (list children assessed)
- Nutrition Education
- Food Storage

IV. Total Time at Facility

V. Administrator's Comments

Consultant's Signature

Administrator's Signature

Recommended Procedures from the Health Department

The State Health Department has shared the attached information with us. It gives guidelines regarding procedures by which you may protect yourself and others from contamination carried through body fluids or unwashed hands. The information is provided for information only but it is highly recommended you, your staff, and the children in your care practice these procedures.

Contact the Office of Resource Management at (334) 242-1650 for copies of these procedures.

ALABAMA LAW
Title 38, Code of Alabama 1975
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. 423, §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 Section 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 one through 12, or taught in public elementary schools, high schools or both elementary and high schools.
- (3) CHILD PLACING AGENCY A public or private child-care facility which receives, places, or arranges for placement any child or children for the purpose of placing or arranging for the placement of the child or children in 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. Such 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 more than 12 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:

- a. Kindergartens or nursery schools or other daytime programs operated by public elementary systems or secondary level school units 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.

(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 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 said family, for the purpose of providing family care and training 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; provided however, that the number of children so received shall not exceed six, unless said 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 12 children for care during part of the day where there are at least two adults present and supervising the activities.

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

(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 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 12 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 12 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, half-brother, half-sister, uncle or aunt, and their spouses.

(Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, §§2-2.12; Acts 1987 No. 87-671, p. 1198; Acts 1993, 1st Ex. Sess., No 93-904, p. 197, §1; Acts 1995, No 95-255, p. 427, §1.

§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 part of a religious non profit 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 section 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 thereunder 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 guardians 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 section 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, 20

Form of Affidavit for Church/School

STATE OF ALABAMA
COUNTY OF

Before me, a notary public in and for aid 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/reenrollment 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, 20

(Acts 1971, 3rd Ex. Sess., No. 174, p. 4423, 3; Acts 1981, No. 81-310, p. 396.)

§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 persons 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 homes 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, or 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 license -- Grounds.

The department may revoke or refuse to renew the license or the approval of any childcare facility or refuse to issue a full license to the holder of a six-month permit should the licensee 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 provision 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) 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 -- 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.)

§38-8-11. Advertisements.

A 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 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 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 wellbeing 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 of 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 Programs

(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.)

DEPARTMENT OF HUMAN RESOURCES OF THE STATE OF ALABAMA
REGULATIONS AND PROCEDURES FOR HEARING
ON DENIALS AND REVOCATIONS OF LICENSES FOR
CHILD CARE INSTITUTIONS, MATERNITY CENTERS, CHILD PLACING AGENCIES,
GROUP HOMES, DAY CARE CENTERS AND NIGHTTIME CENTERS,
GROUP DAY CARE HOMES AND GROUP NIGHTTIME HOMES, AND
FAMILY DAY CARE HOMES AND NIGHTTIME HOMES

Revised October 1988

I. Introduction

The Code of Alabama 1975, as amended (hereinafter referred to as Code), specifically Sections 38-7-9 and 38-7-11, provides the legal base for regulations and procedures for hearings on denials and revocations of licenses issued to child care facilities by the Department of Human Resources. * The regulations contained herein are also in accordance with the rules provided in the Alabama Administrative Procedures Act (Act No. 81-855).

An aggrieved person may appeal to the Department for a fair hearing in the event:

- A. An application for an initial license, six-month permit, or an approval is denied;
- B. An application for a renewal of a license, six-month permit, or an approval is denied;
- C. A license, six-month permit, or an approval is revoked, suspended, or otherwise modified or
- D. An application for license or approval is not acted upon with reasonable promptness. "Reasonable promptness" is defined as 30 days from the date of the receipt by the Department of all information required to make the decision to grant or deny a license.

Also the term "County Department" will be used herein to designate a County Department of Human Resources and the term "State Department" will be used to designate the State Department of Human Resources in Montgomery.

Pursuant to the Code, Sections 38-7-1 through 38-7-17, these Regulations and Procedures are applicable to the following child-care facilities (refer to definitions in Section II):

- A. Child Care Institution
- B. Maternity Center
- C. Child Placing Agency
- D. Group Home
- E. Transitional Living Facility
- F. Day Care or Nighttime Center
- G. Group Day Care Home or Group Nighttime Home
- H Family Day Care Home or Nighttime Home

A copy of these Regulations and Procedures concerning an individual's right to appeal and the methods by which this right may be exercised is to be given at the following times:

- When an application for a license to operate a facility is requested;
- When an application is denied;
- When a license is to be revoked, suspended, or otherwise modified, or renewal denied; or
- At other times when reasonably requested.

II. Definitions

Fair Hearing - Process by which an aggrieved party may take his grievance before the State Department whereby authority is exercised fairly and consistently and the fundamental principles of justice are exercised within the conception of due process of law.

Pre-revocation Hearing - A hearing automatically provided by the State Department preceding the intended revocation of a license to give the person an opportunity to show why the action should not be taken.

Suspension of License - Action taken by the Department which prohibits a child care facility from operating for a period of not longer than 120 days.

License - Document issued by the Department to a person, group of persons or

corporation which allows them to legally operate or conduct a child care facility for a period of 2 years.

Six-Month Permit - Document issued by the Department to a person, group of persons, or corporation which allows them to legally operate or conduct a child care facility for a period of six-months for the purpose of becoming eligible for a full license.

Approval - Letter issued by the Department giving evidence that an otherwise exempt day care facility [refer to Code, Section 38-7-2(8)] meets all Minimum Standards for Day Care Centers and Nighttime Centers. The approval is used only for day care centers which enter into contracts with the Department to provide services to eligible recipients.

Child Care Institutions - 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 but does not include:

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;

Any juvenile detention home established and operated by the State of Alabama; or

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, or both elementary and high school.

Maternity Center - A facility in which any person, agency, or corporation receives care for one or more minor pregnant girls, except that the term does not include hospitals.

Child Placing Agency - A public or private child care facility which receives any child or children for the purpose of placing or arranging for the placement of the child or children in 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 or the court who receives and places children under an order of the court.

Group Home - A child care facility where at least 7 but not more than 10 children are received and maintained for the purpose of providing them with care or training or both.

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 in a variety of residential settings with varying degrees of care and supervision.

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. Such 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 more than 12 children younger than lawful school age for day time care for more than four hours a day, with or without stated educational purposes. The term does not include:

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

Kindergartens or nursery schools or other daytime programs operated as 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;

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;

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

Nighttime Center - A facility which is established to receive 12 or more children for care after 7 p.m.

Group Day Care Home - A child care facility which is a family home and which receives at least 7 but no more than 12 children for care during part of the day where there are at least two adults present and supervising the activities.

Group Nighttime Home - A child care facility which is a family home which receives at least 7 but no more than 12 children for nighttime care after 7 p.m. where there are at least two adults present and supervising the activities.

Family Day Care Home - A child care facility which is a family home which receives not more than 6 children for care during the day.

Nighttime Home - A family home which receives no more than 6 children for care after 7 p.m.

Exempt Day Care Facility - Certain pre-school programs operated by churches and religious non-profit elementary schools which are exempt from licensure.

III. Pre-revocation Hearing

If the Department makes the decision to revoke or refuse to renew the license, approval or Six-Month permit, a pre-revocation hearing must 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.

The notice of the pre-revocation hearing will be sent to the licensee/permit or approval holder by certified mail unless waived. The pre-revocation hearing will be held either in the County Department or the State Department in Montgomery with the licensee/permit or approval holder and staff members of the Department. The hearing officer for the

pre-revocation hearing will be a staff member of the State Department of Human Resources. The licensee/permit or approval holder must be present at the pre-revocation hearing unless the hearing officer excuses him for a specified reason. He may speak for himself or be represented by an attorney or other representative. An attorney for the Department may also be present. The licensee/permit or approval holder may present written evidence or oral testimony and bring to the pre-revocation hearing members of his family, other persons and witnesses. He and his representative have the right to review in the State Department or the County Department, as appropriate, at reasonable times prior to or during the pre-revocation hearing, the case file and written material which will be placed on exhibit or in evidence by the Department. Certain confidential information such as child abuse and neglect records may remain privileged and not subject to disclosure or review. He has a right to request the issuance of subpoenas to witnesses. The request must be received by the hearing officer no later than 10 days prior to the pre-revocation hearing.

If, after having received notice of the pre-revocation hearing, the licensee/permit or approval holder chooses not to have a pre-revocation hearing, he must notify the hearing officer verbally or in writing. The hearing officer will send a letter to the licensee/permit or approval holder confirming the cancellation of the pre-revocation hearing and advising him that the intended action will be taken. The decision not to have a pre-revocation hearing does not alter the right to a fair hearing following the action taken.

During the pre-revocation hearing the hearing officer will hear testimony from the Department as to the specific findings upon which the intended revocation is based. Specific Minimum Standards which are not met will be cited by the Department. The licensee/permit or approval holder or his designated representative will be provided opportunity to present objections to the Department's intended action and to refute findings upon which the decision was based.

The licensee/permit or approval holder should be given the opportunity to voluntarily surrender the license or permit or to withdraw the application for renewal. Following the pre-revocation hearing, the hearing officer will render a decision as to whether the intended action should be taken. If the license/permit/approval is to be revoked, the hearing officer will send a letter by certified mail, unless waived, to the licensee/permit or approval holder and his attorney, if any, stating the decision and citing specific Minimum Standards not met and supporting evidence. If it appears that the Department should take a different action, the hearing officer may recommend that the Department make appropriate stipulations, agreements, arrangements, etc.

The licensing authority will take the action specified and notify the licensee/permit or approval holder of the effective date. The Director of the County Department or his/her designee is the licensing authority for group day care and nighttime homes and family day care and nighttime homes. The Commissioner of the State Department is the licensing authority for all other child-care facilities licensed by the Department, except in

Mobile County the Director of the County Department or his/her designee is the licensing authority for day care centers and nighttime centers.

Refer to Section VI, I., for procedures which will be followed if the licensee/permit or approval holder or his authorized representative fails to appear at the pre-revocation hearing.

The pre-revocation hearing does not alter the right of the licensee/permit or approval holder to a fair hearing as provided in the Code, Section 38-7-9, if he/she is dissatisfied with the decision of the Department following the pre-revocation hearing. Notice of the right to appeal for a fair hearing must be sent to the licensee/permit or approval holder by certified mail.

Note: No pre-denial hearing is required to be held prior to the denial of an initial application for a license, Six-Month permit or approval.

IV. Probationary Permit (Alternative to Revocation)

Within the licensure period, the Department may issue one Six-Month permit on a provisional basis to a licensed child-care facility found to be out of compliance with the Department's minimum standards where such noncompliance does not represent a hazard to the health or safety, or physical, moral or mental well-being of the children in care. During this six-month period, the child-care facility shall correct the items which were in noncompliance and report the corrections to the Department for determination of eligibility for a full license.

The Department cannot consider the issuance of this probationary permit as an alternative to revocation unless the child-care facility has voluntarily surrendered its license to the Department.

V. Suspension of License

In accordance with the Code, Sections 38-7-11 and 41-22-19 (d), the Department has the authority to immediately suspend without notice the license/six-month permit/approval if an inspection by the Department of a licensed or approved child care facility disclose 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. The suspension may remain in effect for a period of not longer than 120 days and shall not be renewable. The pre-revocation hearing shall be scheduled as soon as possible to give the licensee/permit or approval holder an opportunity to show why the license/permit/approval should not be revoked. Procedures for the pre-revocation hearing, as outlined in Section III above, will be followed.

VI. Fair Hearing

A. Time for Request

When a pre-revocation hearing has been held, a request for a fair hearing may be filed with either the State or County Department and must be postmarked within 14

calendar days of the notice of revocation. In all other situations where a pre-action hearing has not been held, a request for a fair hearing must be filed and postmarked within 60 calendar days of the date of the action (or inaction) with which the aggrieved person is dissatisfied. In the absence of a legible postmark, the State or County Department will assume the request was mailed three days prior to its receipt. If the aggrieved person or his representative presents a written statement to the State or County Department, the date the statement is presented will be considered the filing date.

B. Status of License During Hearing Period

Any existing license, six-month permit or approval shall remain in effect during the 14 day time period to request a hearing. If a hearing is requested, the existing license, six-month permit or approval shall remain in effect until, and including, 30 days after the final decision of the Department is rendered or 30 days after the final decision on a request for a rehearing.

If the Department determines, and states in writing, that a danger to the public health, safety or welfare requires emergency suspension, the existing license may be suspended immediately or on the date specified in the notice of suspension.

C. Contents of Request

A hearing request is any clear, written statement that the aggrieved person (claimant) is appealing to the State Department for the opportunity to present his case. Any such clear statement in writing by the claimant or his attorney will be accepted as a formal request for a hearing if the request is based on action (or inaction) by the Department as provided in the Code, Section 38-7-9.

If the appeal is filed by someone other than the aggrieved person, there must be a definite statement by the person making the appeal that it is being made upon authorization of the aggrieved person.

The request must provide the following information.

1. Specific information about the basis for the dissatisfaction with the action (or inaction) of the Department;
2. The approximate date of the action causing dissatisfaction;
3. The correct mailing address of the claimant; and
4. The correct mailing address of the claimant's attorney, if any.

D. Acknowledgment of Hearing Request

After the State Department receives the written request for a hearing (either directly from the claimant or his representative or forwarded from the County Department), the hearing officer will send a letter to the claimant and his attorney, if any, stating whether or not the claimant's request is accepted and, if not, why. If the request is accepted, the letter will include the following information:

The hearing procedures (a copy of the Regulations and Procedures for Hearings shall be enclosed with the letter to the claimant, if he has not been provided a copy previously, and a copy sent to the claimant's attorney, if any);

The claimant's right to present the case or be represented by legal counsel or any other person;

The claimant's right to present written evidence and oral testimony and to bring to the hearing members of his family and other persons to serve as witnesses;

The claimant's and his attorney's right to review in the State of County Department, as appropriate, at reasonable times prior to or during the hearing, the case file and written material which will be placed on exhibit or in evidence by the Department at the hearing (certain confidential information such as child abuse and neglect reports may remain privileged and not subject to disclosure or review);

The fact that the hearing will be held at a convenient location and that he will be notified in advance of the time, date, and place of hearing; and

The right to request issuance of subpoenas to witnesses and the fact that the request must be received by the hearing officer no later than 10 days prior to the hearing.

A copy of the letter to the claimant will be sent to the County Department, if appropriate.

E. Withdrawal or Settlement of Request for Hearing

1. Withdrawal

When the original reason for the hearing has been removed, the State Department will write the claimant, or his attorney, a letter stating this to be the case and asking if the claimant wishes to withdraw his request for a hearing.

This shall not prohibit the claimant's continuing with the hearing if he so desires. Any decision to withdraw must be the claimant's.

The request for withdrawal must be in writing and state the reason for withdrawal. A letter of withdrawal by the claimant or his attorney will be accepted; no other person can withdraw a request for a hearing. The letter of withdrawal may be sent or given to either the State or County Department. An appeal will be considered to have been withdrawn as of the postmarked date the claimant or his attorney brings a withdrawal statement to the County or State Department. The State Department will write a letter to the claimant acknowledging the acceptance of the request to withdraw the hearing.

2. Settlement

A hearing request may be resolved by stipulation, settlement, consent, default or other agreement in writing. The agreement must be filed with the hearing officer and made a part of the hearing record.

F. Notice of Hearing

The hearing officer sets the date, time, and place for the hearing. A written notice will be mailed by the State Department to the claimant and his attorney, if he has one, at least 14 days before the hearing. A copy of the notice will be mailed to the County Department, if appropriate.

1. Content of Notice

The notice of the hearing must include:

The date, time, place, and nature of the hearing;
A statement of the legal authority and jurisdiction;
Reference to particular sections of the statutes and rules involved;
A short, plain statement of the matters asserted or issues involved;
Statement that if the claimant or his attorney fail to attend the hearing on the scheduled date without good cause, the hearing officer may proceed with the hearing and recommend a decision in his absence; and
Statement that the hearing officer will determine whether the reason for failure to attend is acceptable for good cause.

2. Service of Notice

Service of notice of the hearing may be:

By certified mail, return receipt requested;

By any sheriff, constable, or other officer authorized to make service of process in civil court proceedings in this state;

By any employee, agent or representative of the County or State Department of Human Resources;

By mailing by first-class mail, postage prepaid, to the person to be served together with an acknowledgment of service form on a postcard, or in a letter form with a return envelope, postage prepaid, addressed to the sender.

G. Issuance of Subpoenas

The County or State Department, an aggrieved person or their representatives have the right to request the issuance of subpoenas to witnesses and compel their attendance and the production of papers and writings. The claimant and/or his representative is notified at the time of acknowledgment of hearing request of his right to subpoena witnesses.

The request for a subpoena can be made orally and must be confirmed in writing. The request must be received by the hearing officer no later than 10 days prior to the hearing and must be accompanied by the name and address of the person to be subpoenaed.

The subpoena may be served by any of the means specified for service of the notice of hearing (refer to Section VI. F. 2.)

H. Organization of Hearing

1. The Hearing Officer

The hearing officer is an employee, panel of employees or designee, including a designee by contract or agreement, of the State Department of Human Resources. If a panel is used, one member of the panel will be designated as chairperson. A person who has served as hearing officer for a pre-revocation hearing cannot serve as hearing officer or member of the panel for a fair hearing. The hearing officer cannot conduct a hearing of any case in which he has taken part or assisted in the Department's action. The hearing officer exercises full control over the conduct of the hearing.

The duties of the hearing officer include, but are not limited to, the following:

- To direct the hearing;
- To explain the conduct of the hearing;
- To hear testimony;
- To administer oaths, to examine witnesses, to limit the number of witnesses when their testimony would be repetitious or cumulative; and otherwise receive evidence having a bearing on the point(s) of issue. In examining witnesses and in the general conduct of the hearing, the hearing officer must maintain an attitude of impartiality. The only objective in examining witnesses shall be to attempt to arrive at the truth concerning the issues involved. The hearing officer may call and examine witnesses on his own.
- To order, where relevant, necessary, and useful, an independent medical assessment or professional evaluation at agency expense (cost to the agency should not exceed the current maximum payment for other medical examinations paid for by the agency as an administrative expense);
- To exclude from the hearing material unrelated to the point(s) at issue and otherwise decide on the admissibility of evidence;
- To decide on the kind of record to be made of the hearing;
- To sign and issue subpoenas to witnesses or for the production of papers and writings;
- To grant or deny and set time and place for continuances, postponements or further submission of evidence, arguments or briefs;
- To grant or deny petitions or motions to amend, intervene or apply for rehearing's; or
- To reprimand, exclude, or limit the presence of witnesses or other persons at the hearing because of improper conduct, space limitations, or a sequestration of witnesses requested by a party or on the hearing officer's own motion; and
- To render a final decision.

2. The Claimant

The claimant must be present at the hearing unless the hearing officer excuses him for a specific reason. A request from the claimant to be excused from the hearing may be either written or oral and confirmed in writing. The request should be received in the State Office at least three days prior to the hearing and must state the reasons for the request and specify the person designated by the claimant to represent him. An oral request may be justified when last minute emergencies prohibit the claimant from attending the hearing. In any appeal where the claimant is not present, his designated representative must appear on his behalf.

3. Witnesses

The claimant may have members of his family and other persons present at the hearing who may serve as witnesses. Staff or board members of either Department may attend and may serve as witnesses. The hearing officer, however, will consider a person qualified to be a witness only when the person has factual knowledge

about the point(s) at issue. Witnesses must testify under oath.

I. Procedures when Claimant Fails to Attend the Hearing

If the claimant or his representative fails to appear at the hearing after proper notice, the hearing officer may, if no adjournment or postponement is granted, proceed with the hearing and make a decision in the absence of such parties. The hearing officer will immediately send a letter by certified mail, return receipt requested, to the claimant or his representative giving the decision. The claimant will be advised in the letter that he may apply for a rehearing within 15 days of the decision if he can show good cause for failure to attend the scheduled hearing. The hearing officer may require verification of the reason given by the claimant for failure to attend the hearing.

Adjournment, continuance, postponement rescheduling or reopening of the hearing may be granted by the hearing officer for good cause. The following factors will be considered in determining good cause:

- Death in the family;
- Personal injury or illness which reasonably prohibited the client from attending the hearing; and
- Sudden and unexpected emergencies.

J. Conduct of Fair Hearing when a Pre-revocation Hearing Has Been Held

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.

K. Conduct of Hearing When No Pre-revocation Hearing Has Been Held

1. Statement of Issue(s)

The hearing officer will state and define the issue(s). The claimant or the person who represents him will be asked whether he accepts the statement of the issue(s). If not, the claimant or the person who represents him may correct or modify the statement. The issue(s), however, must have a bearing upon the action by the Department with which the claimant is not in agreement.

The hearing officer may allow a reasonable time for an opening statement by the claimant or Department or their representatives. Any preliminary legal motion or argument shall be presented in writing to the hearing officer before or immediately after the opening of the hearing.

2. Period of Testimony

The hearing officer will administer oaths and will hear testimony about the defined issue(s) from the parties, their representatives, and qualified witnesses. All persons giving testimony must confine their remarks to factual information relating to the defined issues in the particular case. The hearing officer, the claimant or his representative, or Department staff having responsibility for the action being appealed, or attorney for the Department may direct questions to witnesses, as

indicated, provide the questions relate to the defined issues. Oral, documentary and other evidence may be admitted as allowed by law. Parties or their representatives may object to the admission of oral, documentary or other evidence. The hearing officer shall timely rule on all objections to the admissibility of evidence. Official notice may be taken of all facts of which judicial notice may be taken and of other scientific and technical facts within the specialized knowledge of the Department. The rules of evidence as applied in the circuit courts of this state shall be followed and effect shall be given to the rules of privilege.

3. Failure of a Subpoenaed Witness to Appear

If the issue of the non-appearance of a subpoenaed witness and/or documents is raised by a party to the hearing, the hearing officer will make a determination whether the witness or documents are necessary to the presentation of the case. If determined necessary, the hearing officer may decide to continue the hearing generally or to continue the hearing until a later date.

If enforcement of the subpoena power is necessary, the hearing officer shall inform the Office of Legal Services, State Department of Human Resources, of the facts involved. The Office of Legal Services will then initiate legal proceedings to enforce the subpoena powers.

4. Period of Arguments

The hearing officer will allow a reasonable time for the claimant or his representative to summarize their factual data and to present any arguments and complaints they wish about the points under consideration in the particular case. This may include refuting oral or written testimony or evidence. Department staff, or the attorney for the Department, may also be allowed a reasonable time to summarize their factual data, testimony, or evidence about the points under consideration. A written memorandum of proposed findings of fact and conclusions of law may be presented before the close of the hearing or within the time specified by the hearing officer.

5. Conclusion of Hearing

The hearing may be adjourned from day to day or to a designated date, at the discretion of the hearing officer, when reasonably necessary to give full opportunity to obtain and present all evidence concerning the points at issue in the particular case. The hearing may be concluded when the hearing officer is satisfied that all pertinent information bearing upon the issue(s) has been introduced and examined.

6. The Hearing Record

The hearing record includes: all pleading, motions, and intermediate rulings; all evidence received or considered; a statement of all matters officially noticed; all questions and offer of proof; all objections and rulings; all proposed findings and exceptions; any decision, opinion, or report by the hearing officer, any staff memoranda or data submitted; and any stenographic notes, reporter or machine recording of the oral proceedings or transcription.

The original recording and/or transcription of the hearing will be maintained at the State Department. If appropriate, a copy will be sent to the County Department for inclusion in the claimant's case record. The hearing record shall be made available to the claimant and/or his representative for inspection and copying. A reasonable

charge may be made for copying, transcription and other services provided.

L. Decision on Appeals

The final administrative action on a hearing request must be made within 90 days of the effective date of the request and within 30 days of the hearing date unless waived by the claimant and the Department or their representatives.

The final decision shall be in writing, signed by the hearing officer, made a part of the hearing record, and shall set forth the issue(s), the principal and relevant facts brought out at the hearing, the pertinent provisions in agency policy, and findings of fact and conclusions of law separately stated.

The hearing decision shall be served by certified mail, return receipt requested, unless waived by the claimant, Department, or their representatives. A copy shall be sent to the County Department to be included in the claimant's case record, if appropriate.

The decision is final and binding upon the claimant and the Department and is not invalidated by the Department's action so long as the conditions under which the decision was made remain the same. However, this does not preclude the Department from modifying the provision of services to meet changes in law, policy, or the claimant's situation.

Upon receiving a copy of the decision, the State or County Department shall take immediate steps to see that any necessary action is taken. If the decision requires action by the State or County Department, the State or County Department shall send a written report to the hearing officer stating what action has been taken.

M. Application for Rehearing

An aggrieved person, the State or County Department, or their representatives may file an application for a rehearing within fifteen (15) days of the final decision. The application shall specify in detail the grounds for the relief sought and give the supporting authority. The filing of such an application shall not extend, modify, suspend or delay the effective date of the decision unless or until said decision shall be superseded, modified, or set aside. Copies are to be served on all parties who may file replies thereto within 10 days. Service may be made by any of the same means as specified in the section regarding the notice of hearing (refer to Section VI, F. 2).

The application for rehearing may be granted only if the final decision is:

1. In violation of state or federal law;
2. In excess of the statutory authority of the Department;
3. In violation of a rule of the Department included in the Department's Administrative Code;
4. Made upon unlawful procedure;
5. Affected by other error of law;
6. Based upon clearly insufficient or unreliable evidence in the record; or
7. Unreasonable, arbitrary, capricious, or inconsistent with prior decisions or based clearly on insufficient justification.

Within 30 days after the filing of an application, the hearing officer may at his discretion enter a decision:

1. Setting a hearing on the application;
2. On the application without a hearing; or
3. Granting or denying the application.

If no decision is entered within 30 days after the filing of the application, the application shall be deemed denied.

N. Judicial Review

An aggrieved person that is still dissatisfied after the final decision has been made, shall be entitled to file a notice of appeal or review of the decision with the circuit court of competent jurisdiction. The notice must be filed within 30 days after receipt of the final decision or within 30 days after the decision on a request for rehearing and must comply with all statutory requirements. The filing of such notice will not delay enforcement of the final decision unless a court of competent jurisdiction shall enter an order to the contrary.