

SENATE BILL NO. 524

BY SENATORS WALSWORTH, GUILLORY AND LAFLEUR AND
REPRESENTATIVES CARTER AND LEGER

1 AN ACT

2 To amend and reenact R.S. 15:587.1(A)(1)(a), R.S. 36:474(A)(11) and 477(B)(1), R.S.
3 46:1401, 1402, 1402.1, 1403, 1404(A), 1405, 1406, 1407, 1414.1, 1415, 1417,
4 1418(A), 1419, 1420(A), 1421, 1422, 1423, 1427, 1428, and 1430, to enact R.S.
5 17:407.26, Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of
6 1950, to be comprised of R.S. 17:407.31 through 407.53, Part X-C of Chapter 1 of
7 Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.
8 17:407.61 through 407.72, and Part X-D of Chapter 1 of Title 17 of the Louisiana
9 Revised Statutes of 1950, to be comprised of R.S. 17:407.81 through 407.84, and to
10 repeal R.S. 46:1414, 1426, and 1429, Chapter 14-B of Title 46 of the Louisiana
11 Revised Statutes of 1950, comprised of R.S. 46:1441 through 1441.14, and Chapter
12 14-E of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S.
13 46:1445 through 1448, relative to early learning center licensing, registration and
14 staff; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 15:587.1(A)(1)(a) is hereby amended and reenacted to read as
17 follows:

18 §587.1 Provision of information to protect children

19 A.(1)(a) As provided in R.S. 15:825.3, R.S. 17:15 **and 407.42**, Children's
20 Code Article 424.1, and R.S. 46:51.2 and 1441.13, any employer or others
21 responsible for the actions of one or more persons who have been given or have
22 applied to be considered for a position of supervisory or disciplinary authority over
23 children, and as provided in R.S. 46:51.2(A), the Department of Children and Family
24 Services as employer of one or more persons who have been given or have applied
25 to be considered for a position whose duties include the investigation of child abuse
26 or neglect, supervisory or disciplinary authority over children, direct care of a child,

1 or performance of licensing surveys, shall request in writing that the bureau supply
 2 information to ascertain whether that person or persons have been arrested for or
 3 convicted of, or pled nolo contendere to, any criminal offense. The request must be
 4 on a form prepared by the bureau and signed by a responsible officer or official of
 5 the organization or department making the request. It must include a statement
 6 signed by the person about whom the request is made which gives his permission for
 7 such information to be released.

8 * * *

9 Section 2. R.S. 17:407.26 and Part X-B of Chapter 1 of Title 17 of the Louisiana
 10 Revised Statutes of 1950, comprised of R.S. 17:407.31 through 407.53, are hereby enacted
 11 to read as follows:

12 **§407.26. Federal Funds for the Child Care and Development Fund Programs;**

13 **state Department of Education's authority to receive**

14 **A. Upon transfer of lead agency authority from the state Department of**
 15 **Children and Family Services to the state Department of Education for the**
 16 **Child Care and Development Fund, the state Department of Education may**
 17 **accept and direct the disbursement of funds appropriated by any act of**
 18 **Congress and apportioned to the state for use in connection with any Child Care**
 19 **and Development Fund programs. The state Department of Education shall**
 20 **deposit all such funds received from the federal government with the state**
 21 **treasurer who shall, subject to legislative appropriation, make disbursements**
 22 **upon the recommendation of the state Department of Education. Prior to the**
 23 **transfer of lead agency authority, the state Department of Children and Family**
 24 **Services shall seek input and approval from the state Department of Education**
 25 **in the development of the Child Care and Development Fund State Plan or any**
 26 **amendments to such plan prior to its submittal to the United States Department**
 27 **of Health and Human Services.**

28 **B. The State Board of Elementary and Secondary Education shall**
 29 **promulgate rules and regulations to implement the Child Care and**
 30 **Development Fund State Plan. The state Department of Education shall develop**
 31 **and implement the state plan in accordance with such rules and regulations.**

1 C. Prior to the transfer of lead agency authority from the state
 2 Department of Children and Family Services to the state Department of
 3 Education, the departments shall enter into a cooperative endeavor agreement
 4 to ensure a coordinated and seamless transition that does not interrupt the
 5 provision of state services nor unduly impact the operation or function of either
 6 agency. The transition shall occur in such a manner that is cost neutral to the
 7 state. The cooperative endeavor agreement entered into by the agencies to
 8 facilitate the transfer of the grant and services shall ensure the transfer of funds
 9 from the state Department of Education to the state Department of Children
 10 and Family Services in an amount sufficient to fully fund the indirect costs of
 11 the state Department of Children and Family Services which were previously
 12 funded by the Child Care and Development Fund, until such time as another
 13 funding source is identified by the state Department of Children and Family
 14 Services to pay for those indirect costs. This agreement between the state
 15 Department of Education and the state Department of Children and Family
 16 Services may also allow services to be purchased by the state Department of
 17 Education including but not limited to fulfilling grant requirements, data
 18 reporting, and services to clients.

19 D. Lead agency authority shall transfer no later than July 1, 2015. The
 20 date shall be established in the cooperative endeavor agreement. The
 21 cooperative endeavor agreement shall be submitted to the Joint Legislative
 22 Committee on the Budget for review.

23 * * *

24 PART X-B. EARLY LEARNING CENTER LICENSING

25 §407.31. Short title

26 This Part may be cited as the "Early Learning Center Licensing Act".

27 §407.32. Legislative intent; declaration of purpose and policy

28 It is the intent of the legislature to protect the health, safety, and
 29 well-being of the children of the state who are in out-of-home care on a regular
 30 or consistent basis. Toward that end, it is the purpose of this Part to establish
 31 statewide minimum standards for the safety and well-being of children in early

1 learning centers, to ensure maintenance of these standards, and to regulate
 2 conditions in these centers through a program of licensing. The State Board of
 3 Elementary and Secondary Education shall promulgate rules and regulations
 4 to implement a program of licensing for early learning centers and the state
 5 Department of Education shall administer the licensing program pursuant to
 6 such rules and regulations.

7 §407.33. Definitions

8 A. As used in this Part, the following definitions shall apply unless the
 9 context clearly states otherwise:

10 (1) "Camp" means any place or facility operated by any institution,
 11 society, agency, corporation, person or persons, or any other group which serves
 12 only children five years of age or older and operates only when school is not in
 13 session during the summer months or school holidays.

14 (2) "Child" means a person who has not reached age eighteen or
 15 otherwise been legally emancipated.

16 (3) "Child day care center" means any place or facility operated by any
 17 institution, political subdivision, society, agency, corporation, person or persons,
 18 or any other group for the purpose of providing care, supervision, and guidance
 19 of seven or more children, not including those related to the caregiver,
 20 unaccompanied by parent or legal custodian, on a regular basis for at least
 21 twelve and one-half hours in a continuous seven-day week. If a child day care
 22 center provides transportation or arranges for transportation to and from the
 23 center, either directly or by contract with third parties, all hours during which
 24 a child is being transported shall be included in calculating the hours of
 25 operation. A child day care center that remains open for more than twelve and
 26 one-half hours in a continuous seven-day week, and in which no individual child
 27 remains for more than twenty-four hours in one continuous stay shall be known
 28 as a full-time child day care center. A child day care center that remains open
 29 after 9:00 p.m. shall meet the regulations established for nighttime care.

30 (4) "Department" means the Department of Education.

31 (5) "Early learning center" means any child day care center, Early Head

1 Start Center, Head Start Center, or stand-alone prekindergarten program not
 2 attached to a school.

3 (6) "Head Start and Early Head Start Programs" mean the federally-
 4 funded early childhood care and education programs that promote and
 5 teach school readiness to children ages birth to five from low-income families
 6 and provide services in the areas of education, social services for families,
 7 nutrition, family engagement, health and mental health, as well as providing the
 8 physical plant and instructional staff members for such purposes.

9 (7) "License type" means the type of license applied for or held, which
 10 shall include Type I, Type II, and Type III.

11 (8) "Related" or "relative" means a natural or adopted child or
 12 grandchild of the caregiver or a child in the legal custody of the caregiver.

13 §407.34. Requirement of licensure

14 All early learning centers shall be licensed prior to beginning operations
 15 in Louisiana. Early learning center licenses shall be of three types: Type I, Type
 16 II, and Type III.

17 §407.35. Exemptions from licensure requirements

18 A. Public and nonpublic day schools serving children in grades
 19 kindergarten and above, including any prekindergarten programs attached
 20 thereto, as well as camps, and care given without charge, shall be exempt from
 21 the provisions of this Part.

22 B. A recognized religious organization which is qualified as a tax-exempt
 23 organization under Section 501(c) of the Internal Revenue Code, which remains
 24 open for not more than twenty-four hours in a continuous seven-day week, and
 25 in which no individual child remains for more than twenty-four hours in one
 26 continuous stay shall not be considered an early learning center for the
 27 purposes of this Part.

28 C. Nothing in this Part shall apply to children in programs licensed or
 29 operated by the Department of Health and Hospitals or the Department of
 30 Children and Family Services.

31 §407.36. Types of Licenses

1 A. A "Type I license" is the type of license issued to an early learning
2 center that is owned or operated by a church or religious organization that is
3 qualified as a tax exempt organization under Section 501(c) of the Internal
4 Revenue Code and that receives no state or federal funds from any source,
5 whether directly or indirectly. A "Type I license" is also the type of license
6 issued to an early learning center holding a "Class B" license prior to the
7 effective date of this Part.

8 (1) No early learning center holding a Type I license shall receive any
9 state or federal funds, from any source, whether directly or indirectly.

10 (2) If an early learning center holding a Type I license receives any state
11 or federal funds, its license shall be automatically revoked.

12 B. A "Type II license" is the type of license issued to an early learning
13 center that either receives no state or federal funds from any source, whether
14 directly or indirectly, or whose only source of state or federal funds is from the
15 United States Department of Agriculture's food and nutrition programs,
16 hereinafter referred to in this Part as "federal food and nutrition programs".

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

20 (2) If an early learning center holding a Type II license receives any state
21 or federal funds, whether directly or indirectly, other than those received solely
22 for federal food and nutrition programs, its license shall be automatically
23 revoked.

24 C. A "Type III license" is the type of license issued to any early learning
25 center which receives state or federal funds, directly or indirectly, from any
26 source other than the federal food and nutrition programs. Type III early
27 learning centers shall meet the performance and academic standards of the
28 Early Childhood Care and Education Network regarding kindergarten
29 readiness as determined by the State Board of Elementary and Secondary
30 Education.

31 D. Nothing in this Section shall prevent an early learning center

1 otherwise qualified for a Type I license to voluntarily seek a Type II or Type III
2 license, or an early learning center otherwise qualified for a Type II license to
3 voluntarily seek a Type III license, provided that such early learning center
4 meets the standards set forth for such license.

5 §407.37. Operating without a license; penalties

6 A. Whoever operates any early learning center without a valid license
7 issued by the department shall be fined by the department not less than one
8 thousand dollars for each day of such offense.

9 B. If any early learning center operates without a valid license issued by
10 the department, the department may file suit in the district court in the parish
11 in which the center is located for injunctive relief, including a temporary
12 restraining order, to restrain the institution, agency, corporation, person or
13 persons, or any other group operating the center from continuing the violation.

14 §407.38. Transitional provisions; applicable regulations

15 A. Until such time as rules are promulgated by the State Board of
16 Elementary and Secondary Education to implement the types of licenses
17 required by R.S. 17:407.36, early learning centers shall continue to follow the
18 administrative rules contained in the Louisiana Administrative Code for the
19 licensure of Class A and Class B child care facilities.

20 B. The administrative rules contained in the Louisiana Administrative
21 Code promulgated by the Department of Children and Family Services which
22 govern or are applicable to the programs and operations transferred from the
23 Department of Children and Family Services to the Department of Education
24 by this Act shall continue to be effective until the Board of Elementary and
25 Secondary Education promulgates rules to implement the types of licenses
26 required by R.S. 17:407.36.

27 C. Upon promulgation by the State Board of Elementary and Secondary
28 Education of rules to implement the three types of licenses:

29 (1) All existing early learning centers possessing a Class B license shall
30 be issued a Type I license as provided by rule, unless the center meets the
31 definition of a Type II license, in which case it shall be issued a Type II license

1 as provided by rule.

2 (2) All existing early learning centers possessing a Class A license that
 3 meet the definition of a Type II license shall be issued a Type II license as
 4 provided by rule.

5 (3) All existing early learning centers possessing a Class A license that
 6 meets the definition of a Type III license shall be issued a Type III license as
 7 provided by rule.

8 D. Any early learning center that intends to change its license type at any
 9 time during the following calendar year shall apply for a new license no later
 10 than December first of the preceding year. This Subsection shall not apply to
 11 early learning centers changing location or ownership that are required to apply
 12 for a new license.

13 E. The department shall maintain on its website all the information that
 14 is required by state and federal funding sources, which shall be easily accessible
 15 to the public, including but not limited to program statistics for the Child Care
 16 Assistance Program that includes monthly and year-end fiscal year totals of the
 17 number of children and amount of benefits of the current year and previous
 18 years back to 2004, monthly statistics of the number of children and the amount
 19 of benefits by parish, applications processed by parish, unduplicated count of
 20 paid providers by month, redeterminations, and cases by parish and fiscal year.
 21 The department shall also include information on each licensed facility for the
 22 last fifteen visits, including licensed capacity, license type, and current rating.

23 §407.39. Licenses; application; temporary or provisional; fees

24 A. Application for licensure of a new early learning center shall be made
 25 by the center to the department using forms furnished by the department. Upon
 26 receipt of an application for a license and verification that minimum
 27 requirements for such license as established by rule are satisfied, and upon
 28 verifying that the center is in compliance with all applicable state and local laws
 29 and regulations, the department shall issue a Type I, Type II, or Type III license
 30 for such period as may be provided for by rule.

31 B. The State Board of Elementary and Secondary Education may

1 provide by rule for the issuance of temporary, provisional, or extended licenses
2 for each license type if a disapproval has not been received from any state or
3 local agency authorized by any laws or rules to inspect or approve such centers.

4 C. A license of any type shall apply only to the location stated on the
5 application, and such license, once issued, shall not be transferable from one
6 person to another or from one location to another. If the location or ownership
7 of the center is changed, then the license shall be automatically revoked.

8 D. Each licensed center shall display its license in a prominent place at
9 the center.

10 E. There shall be an annual license fee for each type of early learning
11 center in an amount equal to the annual license fee in effect for all Class A and
12 Class B child care facilities possessing such license upon the effective date of this
13 Section, without an increase in the amount of such fees.

14 F. There shall be an annual license fee of twenty-five dollars for any
15 license issued to an early learning center providing care for fifteen or fewer
16 children; one hundred dollars for any license issued to an early learning center
17 providing care for at least sixteen but no more than fifty children; one hundred
18 seventy-five dollars for any license issued to an early learning center providing
19 care for at least fifty-one but no more than one hundred children; and two
20 hundred fifty dollars for any license issued to an early learning center providing
21 care for more than one hundred children.

22 G. The annual licensure fees provided in this Section shall not apply to
23 Type I early learning centers.

24 H. Annual fees for any type or category of license shall not be increased
25 unless expressly authorized by statute as provided in Article VII, Section 2.1 of
26 the Constitution of Louisiana.

27 §407.40. Rules, regulations and standards for licenses

28 A. The State Board of Elementary and Secondary Education shall
29 promulgate regulations for each type of license which, at a minimum, shall
30 accomplish all of the following:

31 (1) Promote the health, safety, and welfare of children attending any

1 early learning center.

2 (2) Promote safe and proper physical facilities at all early learning
3 centers.

4 (3) Ensure adequate supervision of those attending early learning
5 centers.

6 (4) Ensure adequate and healthy food service in early learning centers
7 where food is offered.

8 (5) Prohibit discrimination on the basis of race, color, creed, sex, national
9 origin, handicap, ancestry, or whether the child is being breastfed. However,
10 nothing in this Paragraph shall be construed to affect, limit, or otherwise
11 restrict the hiring or admission policies of an early learning center owned by a
12 church or religious organization, or prohibit such a center from giving
13 preference in hiring or admission to members of the church or denomination.

14 (6) Include procedures for the receipt, recordation, and disposition of
15 complaints.

16 B.(1) Every early learning center approved for licensure by the
17 department shall be required to have all of the following:

18 (a) Approval from the office of state fire marshal.

19 (b) Approval from the Department of Health and Hospitals.

20 (2) Each Type III early learning center shall also be required to obtain
21 approval from the department of adherence to the performance and academic
22 standards of the Early Childhood Care and Education Network regarding
23 kindergarten readiness as determined by the State Board of Elementary and
24 Secondary Education. The department shall base its approval upon the uniform
25 accountability system as promulgated by the State Board of Elementary and
26 Secondary Education.

27 C. The State Board of Elementary and Secondary Education shall
28 conduct a comprehensive review of all standards, rules, and regulations for all
29 licenses every three years.

30 D. The State Board of Elementary and Secondary Education, upon
31 request by the department, may waive compliance with a licensing minimum

1 standard upon determination that the economic impact is sufficiently great to
2 make compliance impractical, as long as the health and well-being of the staff
3 or children is not imperiled. If it is determined that the early learning center is
4 meeting or exceeding the intent of a standard or regulation, the standard or
5 regulation may be deemed to be met.

6 E. Nothing in the rules, regulations, and standards adopted pursuant to
7 this Section shall authorize or require medical examination, immunization, or
8 treatment of any child whose parents object to such examination, immunization,
9 or treatment.

10 **§407.41. State Central Registry Disclosure Requirement**

11 A. No individual whose name is recorded on the state central registry
12 within the Department of Children and Family Services as a perpetrator for a
13 justified finding of abuse or neglect of a child shall own or operate a licensed
14 early learning center or shall be hired by a licensed early learning center as an
15 employee or volunteer of any kind, including any therapeutic professionals,
16 extracurricular personnel, and other independent contractors, unless there is
17 a finding by the Department of Children and Family Services that the
18 individual does not pose a risk to children.

19 B. Any owner, operator, current or prospective employee, or volunteer
20 of a licensed early learning center shall report annually, and at any time upon
21 the request of the department, on the state central registry disclosure form
22 promulgated by the Department of Children and Family Services, whether or
23 not his name is currently recorded on the state central registry for a justified
24 finding of abuse or neglect and he is the named perpetrator.

25 C. Any such current or prospective employee or volunteer of a licensed
26 early learning center shall submit the state central registry disclosure form to
27 the owner or operator of the facility, who shall maintain the documents in
28 accordance with current licensing requirements. Any state central registry
29 disclosure form that is maintained in an early learning center licensing file shall
30 be confidential and subject to the confidentiality provisions of R.S. 46:56(F)
31 pertaining to the investigations of abuse and neglect.

1 **D. Any owner, operator, current or prospective employee, or volunteer**
2 **of a licensed early learning center who knowingly falsifies the information on**
3 **the state central registry disclosure form shall be guilty of a misdemeanor**
4 **offense and shall be fined not more than five hundred dollars, or imprisoned for**
5 **not more than six months, or both.**

6 **E. Any owner, operator, current or prospective employee, or volunteer**
7 **of a licensed early learning center who discloses that he is currently recorded**
8 **on the state central registry for a justified finding of abuse or neglect shall be**
9 **entitled to a risk assessment evaluation provided by the Department of Children**
10 **and Family Services to determine whether the individual poses a risk to**
11 **children. Any such individual who is determined to pose a risk to children shall**
12 **have the right to file an appeal in accordance with R.S. 49:992 of the**
13 **Administrative Procedure Act. Any such determination shall be kept on file at**
14 **all times by the Department of Children and Family Services.**

15 **§407.42. Criminal History Review**

16 **A. No person who has been convicted of or has pled nolo contendere to**
17 **a crime listed in R.S. 15:587.1(C) shall directly or indirectly own, operate, or**
18 **participate in the governance of an early learning center, or shall be hired by**
19 **any early learning center as a volunteer or employee of any kind, including any**
20 **therapeutic professionals, extracurricular personnel, and other independent**
21 **contractors, or shall be hired by the department in a position whose duties**
22 **include the performance of licensing inspections in early learning centers.**

23 **B.(1) The State Board of Elementary and Secondary Education shall**
24 **establish by regulation, requirements and procedures consistent with the**
25 **provisions of R.S. 15:587.1 under which:**

26 **(a) The owner or operator of an early learning center may request**
27 **information concerning whether or not any owner or volunteer, applicant, or**
28 **employee of any kind including contractors, of an early learning center has been**
29 **arrested for or convicted of or pled nolo contendere to any criminal offense.**

30 **(b) The department may request information concerning whether or not**
31 **an applicant or employee of the department in a position whose duties include**

1 the performance of licensing inspections has been arrested for or convicted of
 2 or pled nolo contendere to any criminal offense.

3 (2) Included in this regulation shall be the requirement and the
 4 procedure for the submission of a person's fingerprints in a form acceptable to
 5 the Louisiana Bureau of Criminal Identification and Information prior to
 6 employment of such person. A person who has submitted his fingerprints to the
 7 Louisiana Bureau of Criminal Identification and Information may be
 8 temporarily hired pending the report from the bureau as to any convictions of
 9 or pleas of nolo contendere by the person to a crime listed in R.S. 15:587.1(C).

10 §407.43. Inspections

11 It shall be the duty of the department, through its duly authorized
 12 agents, to inspect at regular intervals not to exceed one year, and as deemed
 13 necessary by the department, and without previous notice, all early learning
 14 centers subject to the provisions of this Part. The department shall also develop
 15 and facilitate coordination with and among other authorized agencies making
 16 inspections at regular intervals. The early learning centers shall be open to
 17 inspection by authorized inspection personnel and by parents or legal
 18 custodians of children in care only during working hours.

19 §407.44. Denial, refusal to renew, or revocation of license; written notice

20 The department shall have the power to deny, revoke, or refuse to renew
 21 a license for an early learning center if an applicant has failed to comply with
 22 the provisions of this Part or any applicable, published rule or regulation of the
 23 State Board of Elementary and Secondary Education relating to early learning
 24 centers. If a license is denied or revoked, or renewal is refused, the action shall
 25 be effective when made, and the department shall notify the applicant or
 26 licensee of such action in writing immediately, and of the reason for the denial
 27 or revocation, or refusal to renew the license.

28 §407.45. Denial, refusal to renew, or revocation of license; appeal procedure

29 A. Upon the refusal of the department to grant or renew a license or
 30 upon the revocation of a license, the applicant or licensee having been refused
 31 a license or renewal, or having had a license revoked shall have the right to

1 appeal such action to the division of administrative law by submitting a written
2 request for an appeal to the department within thirty calendar days after
3 receipt of the notification of the refusal to grant a license, or within fifteen
4 calendar days after receipt of the notification of the refusal to renew or
5 revocation. The department shall notify the division of administrative law
6 within ten calendar days of receipt of a request for an appeal and the appeal
7 hearing shall be held no later than thirty calendar days after such notice, with
8 an administrative ruling no later than fifteen calendar days from the date of a
9 hearing for revocation or refusal to renew a license, or within thirty days from
10 the date of a hearing for the denial of a new license. This provision shall in no
11 way preclude the right of the party to seek relief through mandamus suit
12 against the department, as provided by law.

13 B. Notwithstanding any law, rule, regulation, or provision to the
14 contrary, including but not limited to R.S. 49:964(A)(2), the department shall
15 be entitled to seek judicial review from any final decision or order rendered by
16 the division of administrative law in any appeal hearing arising under this Part.
17 The venue of judicial review shall be the district court of the parish in which the
18 licensee is located.

19 §407.46. Operating in violation of regulations; penalties and fines

20 A. (1) For violations related to supervision, criminal history record
21 checks, the state central registry disclosure form, staff-to-child ratios, motor
22 vehicle checks, or failure to report critical incidents, the department may issue
23 a written warning that includes a corrective action plan, in lieu of revocation,
24 upon any person or entity violating these requirements if such condition or
25 occurrence does not pose an imminent threat to the health, safety, rights, or
26 welfare of a child. Failure to implement a corrective action plan issued pursuant
27 to this Section may result in either the assessment of a civil fine or license
28 revocation or may result in both actions being taken by the department. Such
29 civil fine shall not exceed two hundred fifty dollars per day for each assessment;
30 however, the aggregate fines assessed for violations determined in any
31 consecutive twelve-month period shall not exceed two thousand dollars.

1 **(2) The State Board of Elementary and Secondary Education shall adopt**
2 **rules in accordance with the Administrative Procedure Act that articulate**
3 **factors in determining the type of sanction imposed including the severity of**
4 **risk, the actual harm and mitigating circumstances, the failure to implement a**
5 **written corrective action plan, the history of noncompliance, an explanation of**
6 **the treatment of continuing and repeat deficiencies, evidence of a good-faith**
7 **effort to comply, and any other relevant factors. The authority to impose**
8 **sanctions pursuant to this Section shall commence on the effective date of the**
9 **rules promulgated pursuant to this Section.**

10 **B. The State Board of Elementary and Secondary Education shall adopt**
11 **rules and regulations in accordance with the Administrative Procedure Act to**
12 **provide for notice to the early learning center of any violation, for a**
13 **departmental reconsideration process for sanctions issued, and for an appeal**
14 **procedure including judicial review. Such appeal shall be suspensive. All**
15 **appeals pursuant to this Subsection shall be heard by the division of**
16 **administrative law pursuant to Chapter 13-B of Title 49 of the Louisiana**
17 **Revised Statutes of 1950. The division shall furnish to the facility or agency a**
18 **copy of the decision, together with notice of the manner for requesting judicial**
19 **review. During the pendency of an appeal, an early learning center may**
20 **continue to receive funding for services provided to those eligible children as**
21 **determined by the department.**

22 **C. The department may institute any necessary civil court action to**
23 **collect fines imposed and not timely appealed. No child care facility shall claim**
24 **imposed fines as reimbursable. Interest shall begin to accrue at the current**
25 **judicial rate on the day following the date on which any fines become due and**
26 **payable. All costs of any successful action to collect such fines, including travel**
27 **expenses and reasonable attorney fees, shall be awarded to the department in**
28 **addition to the fines.**

29 **D.(1) Civil fines collected pursuant to the provisions of this Section shall**
30 **be deposited immediately into the treasury.**

31 **(2) After compliance with the requirements of Article VII, Section 9(B)**

1 of the Constitution of Louisiana relative to the Bond Security and Redemption
 2 Fund, and prior to the monies being placed in the state general fund, an amount
 3 equal to the amount deposited as provided in Paragraph (1) of this Subsection
 4 shall be credited to a special fund hereby created in the state treasury to be
 5 known as the "Early Learning Center Licensing Trust Fund", hereinafter
 6 referred to as "the fund". The monies in the fund shall be subject to annual
 7 appropriation and shall be available exclusively for use by the department for
 8 the education and training of employees, staff, or other personnel of child care
 9 facilities.

10 (3) The monies in the fund shall be invested by the treasurer in the same
 11 manner as the monies in the state general fund, and all interest earned from the
 12 investment of monies in the fund shall be deposited in and remain to the credit
 13 of the fund. All unexpended and unencumbered monies remaining in the fund
 14 at the end of the fiscal year shall remain in the fund.

15 §407.47. Complaints against centers

16 It shall be the duty of the department, through its duly authorized
 17 agents, to report all complaints, including but not limited to complaints alleging
 18 child abuse or the prevention or spread of communicable diseases, against any
 19 early learning center to the appropriate agencies for investigation and
 20 disposition.

21 §407.48. Disclosure of center information

22 A. The department shall make available, upon written request of a
 23 parent or legal custodian of any child who has applied for placement in an early
 24 learning center licensed by the department, the following information relative
 25 to such early learning center:

26 (1) Any violations of standards, rules, or regulations in the prior twelve
 27 months.

28 (2) Any waivers of minimum standards authorized for such early
 29 learning center.

30 B. Requests may be sent by email, facsimile, or mail and shall include the
 31 name of each early learning center for which information is requested.

1 C. Early learning centers shall make available to parents or legal
 2 custodians information on how to view or obtain copies of early learning center
 3 licensing inspections from the department's website.

4 §407.49. Parent-child relationship

5 The State Board of Elementary and Secondary Education and the
 6 department shall not interfere with the parent-child relationship regarding the
 7 religious training of a child, where all of the following conditions are met:

8 (1) The parent or legal custodian has enrolled their child in a child care
 9 facility, including but not limited to a child residential facility, operated by a
 10 religious, nonprofit organization which is exempt from federal income taxes
 11 pursuant to 26 U.S.C. 501(c)(3).

12 (2) Where, as a condition of enrollment, the child is required to attend
 13 religious services or classes and the parent or legal custodian of the child agrees
 14 to such condition.

15 §407.50. Immunization information; influenza

16 A. Each licensed early learning center, before November first of each
 17 year, shall make available to each child's parent or legal custodian information
 18 relative to the risks associated with influenza and the availability, effectiveness,
 19 known contraindications and possible side effects of the influenza
 20 immunization. Such information shall include the causes and symptoms of
 21 influenza, the means by which influenza is spread, the places where a parent or
 22 legal custodian may obtain additional information, and where a child may be
 23 immunized against influenza. Such information shall be updated annually if
 24 new information on such disease is available.

25 B. (1) The Department of Health and Hospitals shall develop and provide
 26 information on influenza immunization to the department. The department
 27 shall provide such information to each licensed early learning center, which
 28 shall make the information available to each child's parent or legal custodian
 29 pursuant to Subsection A of this Section.

30 (2) The Department of Health and Hospitals and the department shall
 31 determine respectively the most cost-effective and efficient means of

1 distributing such information.

2 C. The department, in consultation with the Department of Health and
3 Hospitals, shall establish by rules and regulations all guidelines and procedures
4 for carrying out the provisions of this Section in accordance with the
5 Administrative Procedure Act.

6 D. Nothing in this Section shall be construed to require any licensed early
7 learning center, the department, or the Department of Health and Hospitals to
8 provide or pay for immunizations against influenza.

9 §407.51. Advisory Council

10 A. The board shall establish an Advisory Council on Early Childhood
11 Care and Education that shall consist of the following members:

12 (1) Two representatives of Type III early learning centers, selected by the
13 state superintendent of education.

14 (2) One representative of a Type II early learning center, selected by the
15 state superintendent of education.

16 (3) One representative of a Type I early learning center, selected by the
17 state superintendent of education.

18 (4) Two representatives of Head Start programs, one of which shall be
19 operated by a local education agency and selected by the state board, and one
20 of which shall be operated by a nonlocal education agency and selected by the
21 state superintendent of education from a list of three persons nominated by the
22 Louisiana Head Start Association.

23 (5) Two representatives of local education agencies operating publicly-
24 funded early childhood programs other than Head Start, selected by the state
25 board.

26 (6) Two representatives of Louisiana nonprofit advocacy organizations
27 having a focus on early childhood education, selected by the state
28 superintendent.

29 (7) Two representatives of approved nonpublic schools with publicly-
30 funded early childhood care and education programs, selected by the state
31 board.

1 (8) One professional or faculty member having child development or
2 early childhood education expertise from a Louisiana post-secondary education
3 institution, selected by the commissioner of higher education.

4 (9) The president of the Louisiana Chapter of the American Academy of
5 Pediatrics, or his designee.

6 (10) One representative of an advocacy or service organization that
7 focuses on serving children with disabilities, selected by the state
8 superintendent.

9 (11) One representative of a Louisiana business or community
10 organization, selected by the state board.

11 (12) One parent of a child currently enrolled in a publicly-funded early
12 learning center or prekindergarten program, selected by the state board.

13 B. The council shall include nonvoting ex officio members who may
14 advise and contribute to discussions pertaining to early childhood care and
15 education, including but not limited to the following:

16 (1) The chairmen of the House Committee on Education, Senate
17 Committee on Education, House Committee on Health and Welfare, and Senate
18 Committee on Health and Welfare, or their designees.

19 (2) The secretary of the Department of Children and Family Services or
20 his designee.

21 (3) The state director of the Louisiana State Head Start Collaboration
22 Project.

23 (4) A representative of the state agency responsible for programs under
24 Section 619 or Part C of the Individuals with Disabilities Education Act (20
25 U.S.C. 1419, 1431 et seq.).

26 (5) The director of the Maternal and Child Health Program at the
27 Department of Health and Hospitals.

28 (6) The director of the Child and Adult Care Food Program at the
29 Department of Education.

30 (7) The Louisiana State Fire Marshal, or his designee.

31 (8) A representative from the office of sanitarian services at the

1 Department of Health and Hospitals.

2 (9) A representative from the Louisiana Workforce Commission.

3 (10) A representative from the Louisiana State Police Bureau of
4 Criminal Identification and Information.

5 C. The council shall serve in an advisory capacity to the board and shall
6 comply with the Open Meetings Law.

7 D. The chair shall be elected by the voting members of the council.

8 E. Council members shall not receive compensation or a per diem for
9 their services or attendance at council meetings.

10 F. The Department of Education shall provide staff support for the
11 council, including but not limited to the scheduling of meetings, providing
12 public notice of scheduled meetings, and including information about the
13 council and its meeting minutes on its website. Council meeting minutes shall
14 be provided to the state board at its next regularly scheduled meeting.

15 G. The council shall meet at least quarterly, with the meetings to be
16 called by the chair or the state superintendent as needed. The chair shall set the
17 agenda.

18 H. The council shall provide input and guidance to the board and the
19 Department of Education on matters pertaining to the development and
20 implementation of rules, regulations, bulletins, policies or standards related to
21 all publicly-funded early care and education programs, including early learning
22 centers, enrollment in early learning centers, the Cecil J. Picard LA4 Early
23 Childhood Program, the Child Care and Development Fund Block Grant or the
24 Child Care Assistance Program, Early Head Start, and Head Start.

25 I. Prior to its submission to the United States Department of Health and
26 Human Services, the department shall consult and provide a draft of the state
27 plan for the Child Care and Development Fund and its budget, and any
28 amendments to the state plan including budget revisions, and provide an
29 opportunity for the council to make recommendations. Recommendations
30 made by the council shall be reported to the state board.

31 J. Prior to the board's consideration of any rule or standard related to

1 early learning centers, enrollment in early learning centers, the Cecil J. Picard
2 LA4 Early Childhood Program, the Child Care and Development Fund Block
3 Grant or the Child Care Assistance Program, the department shall consult with
4 and provide a draft of the proposed rules to the council, and provide an
5 opportunity for the council to make recommendations. Recommendations
6 made by the council shall be reported to the state board prior to their adoption.
7 Nothing herein shall prevent the board from adopting an emergency rule
8 pursuant to the Administrative Procedure Act. The provisions of this
9 Subsection shall not apply to the adoption of emergency rules. However, the
10 department shall notify the council of any meetings of the State Board of
11 Elementary and Secondary Education at which emergency rules pertaining to
12 matters described in Subsection H of this Section will be considered. Such
13 notification shall be given at the same time that public notice of the meeting is
14 given and shall include a draft of the proposed emergency rule.

15 K. The department shall provide quarterly reports on the
16 implementation and progress, activities, and status of the Early Childhood Care
17 and Education Network, including the creation and implementation of an
18 accountability system for early care and education programs and the transition
19 of the Child Care and Development Block Grant and licensure to the
20 Department of Education. Any recommendations by the council shall be
21 reflected in meeting minutes.

22 L. The department shall provide the council with reports not less than
23 annually of the following activities, provided that data is available, pursuant to
24 a schedule agreed upon by the chair and the state superintendent of education:

25 (1) A description of each publicly-funded early care and education
26 program, including the eligibility criteria, the program requirements, average
27 number of hours and days of the program, and the amount of total funding and
28 source of funding for each program. The description shall also include a specific
29 description of the fee structure for the Child Care Assistance Program.

30 (2) The number of children served in each publicly-funded early
31 childhood care and education program in Louisiana, broken down by the age

1 of the child and amount of public funding per child per program.

2 (3) The number of early learning centers by each licensing type and at
 3 each quality level as determined by the accountability system then in place, and
 4 the number of children served at each age in each type at each quality level.

5 (4) Description of the training and support provided to each program
 6 and the amount of funding for this by program and source of funds.

7 (5) Description of unmet family demand for early care and education in
 8 Louisiana.

9 (6) Description of the goals for the upcoming fiscal year for early care
 10 and education in Louisiana, including outcome indicators that will be used to
 11 measure progress, and a description of the progress made in achieving the
 12 previous year's goals.

13 (7) Description and results of any evaluations of the early care and
 14 education programs in the state.

15 (8) Description of the early care and education workforce, including an
 16 analysis of the status of the current early care and education workforce,
 17 including demographics, certifications and education levels, participation and
 18 level on any professional development ladder, and the participation in any
 19 teacher tax credits. The description shall also include information about
 20 salaries and benefits, and a comparison of these to similarly qualified employees
 21 in other but related fields, and an analysis of the workforce capacity necessary
 22 to meet the state's early care and education needs.

23 M. Any reports provided by the department and any council
 24 recommendations shall be included in meeting minutes.

25 §407.52. Coordination

26 The Department of Education shall coordinate with the office of state fire
 27 marshal and the Department of Health and Hospitals to align standards for
 28 licensing of early learning centers with the standards for early childhood
 29 education programs.

30 §407.53. Rules

31 The State Board of Elementary and Secondary Education shall

1 promulgate rules and regulations in accordance with the provisions of the
 2 Administrative Procedure Act to carry out the provisions of this Part.

3 Section 3. Part X-C of Chapter 1 of Title 17 of the Louisiana Revised Statutes of
 4 1950, comprised of R.S. 17:407.61 through 407.72, and Part X-D of Chapter 1 of Title 17
 5 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:407.81 through 407.84, are
 6 hereby enacted to read as follows:

7 PART X-C. Family Child Day Care Home Registration Law

8 §407.61. Short title

9 This Part may be cited as the "Family Child Day Care Home
 10 Registration Law".

11 §407.62. Definitions

12 As used in this Part, the following definitions shall apply unless the
 13 context clearly states otherwise.

14 (1) "Child" means a person who has not reached the age of eighteen
 15 years. The words "child" and "children" are used interchangeably in this Part.

16 (2) "Child and Adult Care Food Program" means the federal nutrition
 17 reimbursement program as funded by the United States Department of
 18 Agriculture through the state Department of Education.

19 (3) "Child Care and Development Fund" means the child care programs
 20 funded through the federal Child Care and Development Fund Block Grant Act
 21 and administered by the state Department of Education.

22 (4) "Department" means the Department of Health and Hospitals or the
 23 Department of Education, as indicated by the context.

24 (5) "Family child day care home" means any place, facility, or home
 25 operated by any institution, society, agency, corporation, person or persons, or
 26 any other group for the primary purpose of providing care, supervision, and
 27 guidance of six or fewer children.

28 (6) "Relative" or "related" means the child, grandchild, niece, or
 29 nephew of the primary child care provider in a family child day care home.

30 §407.63. Requirement for registration; exemptions

31 A. All family child day care homes that receive state or federal funds,

1 directly or indirectly, shall be registered.

2 B. Family child day care homes that do not receive state or federal funds,
3 directly or indirectly, and individuals who provide care for only related family
4 members, shall not be required to be registered.

5 C. All family child day care homes shall be registered prior to receiving
6 any state or federal funds, directly or indirectly.

7 §407.64. Rules and regulations; inspection requirements

8 A. The Department of Health and Hospitals shall promulgate rules and
9 regulations in accordance with the Administrative Procedure Act to carry out
10 the provisions of this Part for all family child day care homes which receive
11 state or federal funds except those family child day care homes which
12 participate in the United States Child and Adult Care Food Program or the
13 Child Care and Development Fund.

14 B. The Department of Education shall promulgate rules and regulations
15 in accordance with the Administrative Procedure Act to carry out the
16 provisions of this Part for those family child day care homes that participate in
17 the United States Child and Adult Care Food Program or the Child Care and
18 Development Fund.

19 C. A family child day care home shall be inspected and approved by the
20 office of state fire marshal in accordance with the rules and regulations as
21 established under Subsections A and B of this Section, developed in consultation
22 with the office of state fire marshal.

23 §407.65. Inspections

24 The Department of Education, through its duly authorized agents, shall
25 reserve the right to visit and inspect registered family child day care homes as
26 deemed necessary by the department. All family child day care homes shall be
27 open to inspection by the department, parents, and by other authorized
28 inspection personnel during normal working hours or when children are in
29 care.

30 §407.66. Fees

31 A. (1) The office of state fire marshal shall have the authority to charge

1 each family child day care home applying for registration or renewal of
2 registration an annual fee for services. This fee shall be adopted in accordance
3 with the Administrative Procedure Act.

4 (2) A fee shall be charged to cover the cost of inspection for family child
5 day care homes regulated by the Department of Education in accordance to R.S.
6 17:407.64(B). The fee shall be set at thirty dollars per inspection and used for
7 the sole purpose of employing personnel to perform such inspections.

8 B. The office of state fire marshal shall transfer sufficient funds to the
9 Department of Health and Hospitals or the Department of Education for those
10 family child day care homes which receive state or federal funds but do not
11 participate in the United States Child and Adult Care Food Program to carry
12 out the registration process in accordance with this Part.

13 §407.67. Revocation or refusal to renew registration; written notice

14 The authorized department shall have the authority to deny, revoke, or
15 refuse to renew a registration of a registered family child day care home if an
16 applicant has failed to comply with the provisions of this Part, any applicable
17 published rule or regulation relating to registered family child day care homes,
18 or any other state, federal, or local rule or regulation. If a registration is denied,
19 revoked, or withdrawn, the action shall be effective when made and the family
20 child day care home shall be notified in writing. This notice shall give the reason
21 for denial, revocation, or withdrawal of the registration.

22 §407.68. Revocation or refusal of registration; appeal procedure

23 Upon the refusal of the department to grant or renew a registration or
24 upon the revocation of a registration, the family child day care home having
25 been refused a registration or renewal or having had a registration revoked
26 shall have the right to appeal such action to the division of administrative law
27 by submitting a written request for an appeal to the department within thirty
28 calendar days after receipt of the notification of the refusal or revocation. The
29 department shall notify the division of administrative law within ten calendar
30 days of receipt of a request for an appeal and the appeal hearing shall be held
31 no later than thirty calendar days after such notice, with an administrative

1 ruling no later than thirty calendar days from the date of the hearing. This
 2 provision shall in no way preclude the right of the party to seek relief through
 3 mandamus suit against the department, as provided by law.

4 §407.69. Operating without or in violation of registration; penalty; injunctive
 5 relief

6 A. Whoever operates a family child day care home required to be
 7 registered under this Part without a valid registration issued by the department
 8 shall be fined not less than twenty-five dollars nor more than one hundred
 9 dollars. Each day of operation in violation of the requirements of this Part shall
 10 constitute a separate offense.

11 B. The department may also file suit in the district court in the parish in
 12 which the family child day care home is located for injunctive relief, including
 13 a temporary restraining order, to restrain the family child day care home from
 14 continuing the violation.

15 §407.70. Notification of health and safety violations

16 The department shall notify the appropriate agencies if it is determined
 17 that one or more violations exist within a family child day care home which
 18 place the health and well-being of a child or children in imminent danger.

19 §407.71. Grounds for revocation or refusal to renew registration; criminal
 20 activities; lack of CPR or first aid training

21 A. No family child day care home may have in its employ, or living in the
 22 home, any person who has been convicted of or pled nolo contendere to a crime
 23 listed in R.S. 15:587.1(C). The cost of any criminal background check which
 24 may be required by the department as proof of compliance with this Subsection
 25 shall be the responsibility of the family child day care home.

26 B. The primary child care provider of any family child day care home
 27 shall have documented current certification in either Infant/Child CPR or
 28 Infant/Child/Adult CPR.

29 C. The department may deny, revoke, or refuse to renew any registration
 30 of a family child day care home which violates the provisions of this Section.

31 D. The provisions of this Section shall not apply to a family child day

1 care home in which the primary child care provider at such home is related to
 2 all the children receiving child care at such home.

3 E. The provisions of this Section shall not apply to a family child day
 4 care home registered with the Department of Education solely for participation
 5 in the United States Child and Adult Care Food Program.

6 §407.72. Orientation

7 A. All family child day care home providers receiving payments from the
 8 Department of Education shall be required to participate in a four-hour
 9 orientation. The orientation curriculum shall include but not be limited to the
 10 following subjects: recordkeeping; immunization schedules and requirements;
 11 recognizing signs of child abuse; child abuse prevention; communicating with
 12 parents; age appropriate activities for young children; child development; child
 13 safety; and nutritional needs of children. The orientation will count toward the
 14 required hours of professional development training mandated by the
 15 Department of Education.

16 B. New family child day care home providers are required to provide
 17 proof of orientation participation within twelve months after beginning
 18 operation. New providers, at the time of application, are required to sign an
 19 agreement committing to attend the required orientation within twelve months.

20 PART X-D. Early Learning Staff

21 §407.81. Legislative intent; declaration of policy

22 It is the intent of the legislature to protect the health, safety, and well-
 23 being of the children of the state who are in out-of-home care on a regular or
 24 consistent basis. To that end, it shall be the policy of the state to ensure
 25 protection of children in care by encouraging early learning staff to obtain
 26 certification through early childhood educational training programs.

27 §407.82. Definitions

28 As used in this Part, the following definitions shall apply:

29 (1) "Early learning staff" means a person employed as a full-time staff
 30 member in a licensed early learning center or a registered family child day care
 31 home.

(2) "Department" means the Department of Education.

§407.83. Early learning staff; training

Early learning staff who participate in an early childhood educational training program approved by the department may be eligible for a scholarship funded by the state. Such scholarship shall be awarded only if funds are appropriated by the federal government for such purpose.

§407.84. Departmental duties and responsibilities

A. The department shall administer the provisions of this Part and shall be responsible for all matters pertaining to establishing the scholarship amount and the method of payment to eligible early learning staff.

B. The department shall develop guidelines and procedures to implement the provisions of this Part and to establish the amount of scholarships. The guidelines for determining the scholarship amount may include the number of training hours earned, the type of training selected, the cost of the training to early learning staff, the benefit of the training to the state and to the children served, and other points considered essential by the department.

Section 4. R.S. 36:474(A)(11) and 477(B)(1) are hereby amended and reenacted to read as follows:

§474. Powers and duties of the secretary of the Department of Children and Family Services

A. In addition to the functions, powers, and duties otherwise vested in the secretary by law, he shall:

* * *

(11) Except as provided in Subsection G of this Section, prepare and submit a state plan for participation in the Child Care and Development Block Grant Program **until such authority is transferred to the state Department of Education in accordance with R.S. 17:407.26,** and in the Title IV-A federal program to assist families at risk of welfare dependency. The Joint Committee on Health and Welfare shall serve as an advisory committee to the secretary to begin developing the state plan.

* * *

1 §477. Office; purposes and functions

2 * * *

3 B.(1) The office of children and family services shall perform the services of
4 the state relating to public assistance programs to provide aid to dependent children
5 and to adults, who due to age, disability, or infirmity, are unable to adequately meet
6 their basic needs. It shall also administer the food stamp program, child support
7 programs, establishment of paternity programs, disaster relief grant programs for
8 individuals and families, and such other programs as assigned by the secretary. It
9 shall also conduct disability and other client eligibility determinations, and may
10 conduct medical assistance client eligibility determinations. The office is authorized
11 to enter into interagency agreements with other state agencies to conduct eligibility
12 determinations. The office shall provide for the public child welfare functions of the
13 state including but not limited to prevention services which promote, facilitate, and
14 support activities to prevent child abuse and neglect; child protective services;
15 voluntary family strengthening and support services; making permanent plans for
16 foster children and meeting their daily maintenance needs of food, shelter, clothing,
17 necessary physical medical services, school supplies, and incidental personal needs;
18 and adoption placement services for foster children freed for adoption. It shall also
19 perform the functions of the state relating to the licensing of ~~child care facilities that~~
20 ~~do not receive federal funds under Title XIX of the Social Security Act and day care~~
21 ~~centers and agencies~~ **facilities regulated under Chapter 14 of Title 46 of the**
22 **Louisiana Revised Statutes of 1950.** The office shall issue and monitor domestic
23 violence services contracts.

24 * * *

25 Section 5. R.S. 46:1401, 1402, 1402.1, 1403, 1404(A), 1405, 1406, 1407, 1414.1,
26 1415, 1417, 1418(A), 1419, 1420(A), 1421, 1422, 1423, 1427, 1428, and 1430 are hereby
27 amended and reenacted to read as follows:

28 CHAPTER 14. ~~CHILD CARE FACILITIES AND~~
29 ~~CHILD-PLACING AGENCIES~~ **LICENSING SPECIALIZED PROVIDERS**

30 §1401. Short title

31 This Chapter may be cited as the "~~Child Care Facility and Child-Placing~~

1 Agency **Specialized Provider** Licensing Act."

2 §1402. Legislative intent; declaration of purpose and policy

3 It is the intent of the legislature to protect the health, safety, and well-being
4 of the children of the state who are in out-of-home care on a regular or consistent
5 basis. Toward that end, it is the purpose of this Chapter to establish statewide
6 minimum standards for the safety and well-being of children, to insure maintenance
7 of these standards, and to regulate conditions in these facilities through a program
8 of licensing. It shall be the policy of the state to insure protection of all individuals
9 under care ~~in child care facilities and placement agencies~~ **by specialized providers**
10 and to encourage and assist in the improvement of programs. It is the further intent
11 of the legislature that the freedom of religion of all citizens shall be inviolate. This
12 Chapter shall not give the Department of Health and Hospitals or the Department of
13 Children and Family Services jurisdiction or authority to regulate, control, supervise,
14 or in any way be involved in the form, manner, or content of any curriculum or
15 instruction of a school or ~~facility~~ **specialized provider** sponsored by a church or
16 religious organization so long as the civil and human rights of the clients and
17 residents are not violated.

18 §1402.1. Licensing; prohibition of conflict of interest

19 All licenses issued to ~~child care facilities and child-placing facilities~~
20 **specialized providers** pursuant to this Chapter shall specify that the facility shall not
21 enter into any contract or engage in any activities in conflict with its duties to the
22 mothers, fathers, and children that it is licensed to serve.

23 §1403. Definitions

24 ~~As~~ As used in this Chapter, the following definitions shall apply unless the
25 context clearly states otherwise:

26 (1) ~~"Camp" means any place or facility operated by any institution, society,~~
27 ~~agency, corporation, person or persons, or any other group which serves only~~
28 ~~children five years of age or older and operates only when school is not in session~~
29 ~~during the summer months or school holidays, or both.~~

30 (2) "Child" means a person who has not reached age eighteen or otherwise
31 been legally emancipated. The words "child" and "children" are used interchangeably

1 in this Chapter.

2 ~~(3) "Child day care center" means any place or facility operated by any~~
 3 ~~institution, society, agency, corporation, person or persons, or any other group for~~
 4 ~~the purpose of providing care, supervision, and guidance of seven or more children,~~
 5 ~~not including those related to the caregiver, unaccompanied by parent or guardian,~~
 6 ~~on a regular basis for at least twelve and one-half hours in a continuous seven-day~~
 7 ~~week. If a child day care center provides transportation or arranges for transportation~~
 8 ~~to and from the center, either directly or by contract with third parties, all hours~~
 9 ~~during which a child is being transported shall be included in calculating the hours~~
 10 ~~of operation. A child day care center that remains open for more than twelve and~~
 11 ~~one-half hours in a continuous seven-day week, and in which no individual child~~
 12 ~~remains for more than twenty-four hours in one continuous stay shall be known as~~
 13 ~~a full-time child day care center. A child day care center that remains open after 9:00~~
 14 ~~p.m. shall meet the appropriate regulations established for nighttime care.~~

15 ~~(4)~~(2) "Child-placing agency" means any institution, society, agency,
 16 corporation, facility, person or persons, or any other group engaged in placing
 17 children in foster care or with substitute parents for temporary care or for adoption,
 18 or engaged in assisting or facilitating the adoption of children, or engaged in placing
 19 youth in transitional placing programs, but shall not mean a person who may
 20 occasionally refer children for temporary care.

21 ~~(5)~~(3) "Department" means the Department of Children and Family Services.

22 ~~(6) "Early childhood learning center" means any child day care center, Early~~
 23 ~~Head Start grantee, Head Start grantee, or stand-alone prekindergarten or~~
 24 ~~kindergarten program that is not attached to a school and that is licensed by the state.~~

25 ~~(7) "License category" means the category of license applied for or held,~~
 26 ~~which shall include early childhood learning centers, maternity homes, residential~~
 27 ~~homes, and child-placing agencies.~~

28 ~~(8)~~(4) "License type" means the type of license applied for or held **by a**
 29 **specialized provider**, which shall include Type I, ~~Type II, Type III,~~ and Type IV
 30 licenses.

31 ~~(9)~~(5) "Maternity home" means any place or facility in which any institution,

1 society, agency, corporation, person or persons, or any other group regularly receives
 2 and provides necessary services for children before, during, and immediately
 3 following birth. This definition shall not include any place or facility which receives
 4 and provides services for women who receive maternity care in the home of a
 5 relative within the sixth degree of kindred, computed according to civil law, or
 6 general or special hospitals in which maternity treatment and care is part of the
 7 medical services performed and the care of children only brief and incidental.

8 ~~(10)~~**(6)** "Related" or "relative" means a natural or adopted child or grandchild
 9 of the caregiver or a child in the legal custody of the caregiver.

10 ~~(11)~~**(7)** "Residential home" means any place, facility, or home operated by
 11 any institution, society, agency, corporation, person or persons, or any other group
 12 to provide full-time care, twenty-four hours per day, for more than four children who
 13 are not related to the operators and whose parents or guardians are not residents of
 14 the same facility, with or without transfer of custody.

15 ~~(12)~~ "School", as referred to in R.S. 46:1415, means any institution or facility
 16 which provides for education of children in grades one or above. Any kindergarten
 17 or prekindergarten attached thereto shall be considered part of that school.

18 ~~(13)~~**(8)** "Specialized provider" means a child-placing agency, maternity
 19 home, or residential home.

20 ~~(14)~~**(9)** "Type I license" means a license held by a ~~child day care center or~~
 21 residential home that is owned or operated by a church or religious organization that
 22 does not wish to be licensed as a ~~Type II, Type III, or Type IV~~ center. Nothing herein
 23 shall be construed to require a children's religious ministry program operated by a
 24 church or other religious organization in accordance with R.S. 46:1429 to be licensed
 25 pursuant to this Chapter. "Type I license" also means a license held by a ~~child day~~
 26 ~~care center or~~ residential home holding a Class B license prior to the effective date
 27 of this Section.

28 ~~(15)~~ "Type II license" means the license held by a ~~privately owned child day~~
 29 ~~care center that either receives no state or federal funds from any source, whether~~
 30 ~~directly or indirectly, or whose only source of state or federal funds is the federal~~
 31 ~~food and nutrition program.~~

1 ~~(16) "Type III license" means the license held by any publicly or privately~~
 2 ~~owned early childhood learning center which receives state or federal funds, directly~~
 3 ~~or indirectly, from any source other than the federal food and nutrition program.~~
 4 ~~Type III early childhood learning centers shall meet the performance and academic~~
 5 ~~standards of the Early Childhood Care and Education Network regarding~~
 6 ~~kindergarten readiness, as determined by the State Board of Elementary and~~
 7 ~~Secondary Education.~~

8 ~~(17)~~**(10)** "Type IV license" means the license held by any publicly or
 9 privately owned specialized provider.

10 ~~(18)~~**(11)** "Youth" means a person not less than sixteen years of age nor older
 11 than twenty-one years of age.

12 ~~B. For purposes of this Chapter "child care facility" shall include maternity~~
 13 ~~homes, early childhood learning centers, and residential homes as defined in this~~
 14 ~~Section.~~

15 * * *

16 §1404. Requirement of licensure

17 A. All ~~early childhood learning centers and~~ specialized providers, including
 18 facilities owned or operated by any governmental, profit, nonprofit, private, or
 19 church agency, shall be licensed. ~~Child care facility~~ **Specialized provider** licenses
 20 shall be of ~~four~~ **two** types: Type I, ~~Type II, Type III,~~ and Type IV.

21 * * *

22 §1405. Transitional provisions

23 A.~~(1)~~ Until such time as rules are promulgated by the department to
 24 implement the types of licenses required by R.S. 46:1404, ~~child care facilities and~~
 25 ~~child-placing agencies~~ **specialized providers** shall follow the rules, regulations, and
 26 standards in effect for Class A and Class B licensure.

27 ~~(2) The department shall create an early childhood learning working group~~
 28 ~~to include one representative from Louisiana's Early Childhood Advisory Council,~~
 29 ~~the Child Care Association of Louisiana, the Nonpublic School Council, the~~
 30 ~~Louisiana Head Start Association, the Department of Children and Family Services,~~
 31 ~~the Department of Education, the Children's Cabinet, and the office of the governor.~~

1 Such working group shall include participants having expertise in care of infants and
2 toddlers, pediatric health, pediatric mental health, cognitive development, and social
3 emotional development. The department shall seek input from the working group in
4 the development of the rules and regulations establishing Type I, Type II, and Type
5 III licenses and shall submit the proposed rules and regulations pursuant to this
6 Section to the working group for approval. Such working group shall forward the
7 proposed rules and regulations to the Children's Defense Fund, the Louisiana
8 Association for the Education of Young Children, and Louisiana Partnership for
9 Children and Families no later than November 1, 2013, for review and comment. The
10 working group shall be dissolved on the effective date of any provision of law which
11 transfers statutory authority for licensing of child day care centers from the
12 Department of Children and Family Services to the Department of Education.

13 B. All existing ~~child day care centers~~ or residential homes possessing a Class
14 B license shall be issued a Type I license as provided by rule.

15 C.~~(1)~~ All child day care centers that meet the definition for a Type II license
16 pursuant to this Chapter shall be issued a Type II license as provided by rule.

17 ~~(2) Any child day care center possessing a Class A license on January 1, 2014~~
18 ~~that meets the definition of a Type II license pursuant to this Chapter shall be issued~~
19 ~~a Type II license as provided by rule.~~

20 D. ~~All existing early childhood learning centers that meet the definition for~~
21 ~~a Type III license pursuant to this Chapter shall be issued a Type III license as~~
22 ~~provided by rule.~~

23 E.~~(1)~~ C. All existing child placing agencies, maternity homes, and residential
24 homes that meet the definition for a Type IV license pursuant to this Chapter shall
25 be issued a Type IV license as provided by rule.

26 ~~(2) Any maternity home, residential home, or child-placing agency~~
27 ~~possessing a Class A license on January 1, 2014 that meets the definition of a Type~~
28 ~~IV license pursuant to this Chapter shall be issued a Type IV license.~~

29 F. Any early childhood learning center that requests to change its license type
30 for the following year shall apply to the department no later than December first of
31 the preceding year. This Subsection shall not apply to early childhood learning

1 ~~centers changing location or ownership that are required to apply for a new license~~
 2 ~~pursuant to R.S. 46:1406(C).~~

3 §1406. Licenses; application; temporary or provisional; fees

4 A. Application for licensure of a new ~~child care facility or~~ specialized
 5 provider shall be made by the ~~child care facility or~~ specialized provider to the
 6 department upon forms furnished by the department. Upon receipt of the application
 7 for a license and verification that minimum requirements for such license as
 8 established by rule are satisfied, and that the ~~facility or agency~~ **specialized provider**
 9 is in compliance with all other state and local laws and regulations, the department
 10 shall issue a Type I, ~~Type II, Type III,~~ or Type IV license for ~~the appropriate license~~
 11 ~~category~~ for such period as may be provided for by rule.

12 B. The department may provide through the promulgation of rules for the
 13 issuance of temporary, provisional, or extended licenses for each license ~~category~~
 14 ~~and~~ type if a disapproval has not been received from any other state or local agency
 15 authorized by any other laws or rules to inspect such ~~facilities or agencies~~
 16 **specialized providers**.

17 C. A license of any type ~~or category~~ shall apply only to the location stated on
 18 the application, and such license, once issued, shall not be transferable from one
 19 person to another or from one location to another. If the location or ownership of the
 20 ~~facility~~ **specialized provider** is changed, then the license shall be automatically
 21 revoked. A new application form shall be completed prior to all license renewals.

22 D. Each licensed ~~facility~~ **specialized provider** shall display its license in a
 23 prominent place at the facility, except that a ~~facility~~ **specialized provider** operated
 24 by a church or religious organization may be exempt from such requirement,
 25 provided the license is available upon request.

26 E. There shall be an annual license fee for each ~~type of early childhood~~
 27 ~~learning center and~~ specialized provider in an amount equal to the annual license fee
 28 in effect for all Class A and Class B ~~child care facilities and child-placing agencies~~
 29 **specialized providers** possessing such license on January 1, 2014, without an
 30 increase in the amount of such fees.

31 F. ~~There shall be an annual license fee of twenty-five dollars for any license~~

1 ~~issued to an early childhood learning center providing care for fifteen or fewer~~
 2 ~~children; one hundred dollars for any license issued to an early childhood learning~~
 3 ~~center providing care for at least sixteen but no more than fifty children; one hundred~~
 4 ~~seventy-five dollars for any license issued to an early childhood learning center~~
 5 ~~providing care for at least fifty-one but no more than one hundred children; and two~~
 6 ~~hundred fifty dollars for any license issued to an early childhood learning center~~
 7 ~~providing care for more than one hundred children.~~

8 ~~G. There shall be an annual license fee of one hundred dollars for any license~~
 9 ~~issued to a residential home providing care for six or less children; two hundred~~
 10 ~~dollars for any license issued to a residential facility providing care for at least seven~~
 11 ~~but no more than fifteen children; and three hundred dollars for any license issued~~
 12 ~~to a residential facility providing care for sixteen or more children.~~

13 ~~H. F.~~ There shall be an annual license fee of fifty dollars for any license
 14 issued to a child-placing agency or maternity home.

15 ~~I. G.~~ The fees provided for in this Section shall not apply to any Type I ~~child~~
 16 ~~day care center~~ **specialized provider** owned or operated by a church or religious
 17 organization.

18 ~~J. H.~~ Annual fees for any type ~~or category~~ of license shall not be increased
 19 unless expressly authorized by statute as provided in Article VII, § **Section** 2.1 of the
 20 Constitution of Louisiana.

21 §1407. Rules, regulations, and standards for licenses

22 A. The department shall promulgate regulations for each ~~category and type~~
 23 ~~of license to carry out the provisions of this Chapter in accordance with the~~
 24 ~~provisions of the Administrative Procedure Act. The department shall seek input and~~
 25 ~~guidance from the Louisiana Advisory Council on Child Care and Early Education~~
 26 ~~concerning the proposed rules and regulations for approval of Type I, Type II, and~~
 27 ~~Type III facilities for licensure in accordance with the Administrative Procedure Act.~~

28 B.(1) The regulations developed by the department, at a minimum, shall
 29 accomplish all of the following:

30 (a) Promote the health, safety, and welfare of children attending any facility
 31 **specialized provider.**

1 (b) Promote safe, comfortable, and proper physical facilities **of specialized**
2 **providers**.

3 (c) Ensure adequate supervision of those attending facilities **specialized**
4 **providers** by capable, qualified, and healthy personnel.

5 (d) Ensure adequate and healthy food service in facilities **specialized**
6 **providers** where food is offered.

7 (e) Prohibit discrimination by ~~early childhood learning centers and~~
8 specialized providers on the basis of race, color, creed, sex, national origin, handicap,
9 ancestry, or whether the child is being breastfed. However, nothing in this
10 Subparagraph shall be construed to affect, limit, or otherwise restrict any of the
11 following:

12 (i) The hiring or admission policies of a licensed ~~child day care center~~
13 **specialized provider** owned by a church or religious organization, which may give
14 preference in hiring or admission to members of the church or denomination.

15 (ii) The rights of religious sectarian child-placing agencies to consider creed
16 in any decision or action relating to foster care or adoption.

17 (f) Require **residential home and maternity home** providers to have a
18 written description of admission policies and criteria which expresses the needs,
19 problems, situations, or patterns best addressed by its program. These policies shall
20 be available to the person legally responsible for any child referred for placement.

21 (g) Include procedures by which parents and guardians are given an
22 opportunity for consultation and information about the educational and therapeutic
23 programs for the child in attendance.

24 (h) Include regulations and standards for nighttime care.

25 (i) Include procedures for the receipt, recordation, and disposition of
26 complaints.

27 (j) Include procedures for the return of a child to his parent. Arrangements
28 for the child's return to his parent shall not include third parties or other child care
29 agencies unless written agreement between the child care agency and the parent is
30 on file with the child care agency.

31 ~~(k) Include procedures that allow an early childhood learning center to~~

1 remedy certain deficiencies immediately upon identification by the department in an
 2 onsite inspection, provided that any deficiency that may be remedied in such manner
 3 does not constitute a critical violation of licensing standards as determined by the
 4 department.

5 (2)(a) Any entity **specialized provider** approved by the department shall be
 6 required to have all of the following:

7 (i)(a) Approval from the Department of Public Safety and Corrections, office
 8 of the state fire marshal, code enforcement and building safety.

9 (ii)(b) Approval from the Department of Health and Hospitals, office of
 10 public health.

11 (b) ~~Type III early childhood learning centers shall adhere to the performance
 12 and academic standards of the Early Childhood Care and Education Network
 13 regarding kindergarten readiness as determined by the State Board of Elementary
 14 and Secondary Education. The Department of Education shall base its approval upon
 15 the uniform accountability system.~~

16 (3) No facility **residential home provider** holding a Type I license shall
 17 receive any state or federal funds, from any source, whether directly or indirectly.
 18 If a facility **residential home provider** holding a Type I license receives any state
 19 or federal funds, its license shall be automatically revoked.

20 (4) ~~No facility holding a Type II license shall receive any state or federal
 21 funds, from any source, whether directly or indirectly, other than those received
 22 solely for food and nutrition. If a facility holding a Type II license receives any state
 23 or federal funds, whether directly or indirectly, other than those received solely for
 24 food and nutrition, its license shall be automatically revoked.~~

25 C. The department shall prepare standard forms for applications and for
 26 inspection reports.

27 D. A comprehensive review of all standards, rules, and regulations for all
 28 licenses shall be made at least every three years by the department.

29 E. The secretary of the department, in specific instances, may waive
 30 compliance with a minimum standard upon determination that the economic impact
 31 is sufficiently great to make compliance impractical, as long as the health and well-

1 being of the staff or children is not imperiled. If it is determined that the facility
2 **specialized provider** or agency is meeting or exceeding the intent of a standard or
3 regulation, the standard or regulation may be deemed to be met.

4 F. Discrimination by ~~child care facilities~~ **specialized providers** and child-
5 placing agencies on the basis of race, color, creed, sex, national origin, disability as
6 defined by R.S. 51:2232(11), ancestry, or whether the child is being breastfed is
7 prohibited. However, this shall not restrict the hiring or admission policies of a
8 church or religious organization, which may give preference in hiring or admission
9 to members of the church or denomination.

10 G. The department shall not regulate or attempt to regulate or control the
11 religious or spiritual content of the curriculum of a ~~school or facility~~ **specialized**
12 **provider** sponsored by a church or religious organization.

13 H. Nothing in the rules, regulations, and standards adopted pursuant to this
14 Section shall authorize or require medical examination, immunization, or treatment
15 of any child whose parents object to such examination, immunization, or treatment
16 on religious grounds.

17 I. Each **residential home and maternity home** facility shall have a written
18 discipline policy, which shall be made available to parents and to authorized
19 inspection personnel upon request.

20 * * *

21 §1414.1. Disclosure requirements; penalties

22 A. Any owner, operator, current or prospective employee, or volunteer of a
23 ~~child care facility~~ **specialized provider** licensed by the Department of Children and
24 Family Services shall report annually and at any time upon the request of the
25 department on the state central registry disclosure form promulgated by the
26 department whether or not his name is currently recorded on the state central registry
27 for a justified finding of abuse or neglect and he is the named perpetrator.

28 B. Any such current or prospective employee or volunteer of a ~~child care~~
29 ~~facility~~ **specialized provider** licensed by the department shall submit the state
30 central registry disclosure form to the owner or operator of the ~~facility~~ **specialized**
31 **provider**, who shall maintain the documents in accordance with current department

1 licensing requirements. Any state central registry disclosure form that is maintained
2 ~~in a child care facility~~ **by a specialized provider** licensing file shall be confidential
3 and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the
4 investigations of abuse and neglect.

5 C. Any owner, operator, current or prospective employee, or volunteer of a
6 ~~child care facility~~ **specialized provider** licensed by the department who knowingly
7 falsifies the information on the state central registry disclosure form shall be guilty
8 of a misdemeanor offense and shall be fined not more than five hundred dollars, or
9 imprisoned for not more than six months, or both.

10 D. Any owner, operator, current or prospective employee, or volunteer of a
11 ~~child care facility~~ **specialized provider** licensed by the department who discloses
12 that he is currently recorded on the state central registry for a justified finding of
13 abuse or neglect shall be entitled to a risk assessment evaluation provided by the
14 department to determine that the individual does not pose a risk to children. Any
15 such individual who is determined to pose a risk to children shall have the right to
16 file an appeal in accordance with R.S. 49:992 of the Administrative Procedure Act.
17 Any such determination by the risk evaluation panel shall be kept on file at all times
18 by the department.

19 E. The department shall promulgate rules and regulations to implement this
20 Section. The rules and regulations shall include but not be limited to establishing
21 criteria for risk evaluation requests, the composition of the risk evaluation panel, and
22 establishing criteria for risk evaluation determinations.

23 §1415. Facilities and agencies subject to regulation; exemptions

24 A. All ~~early childhood learning centers~~ and specialized providers shall be
25 subject to the provisions of this Chapter. However, ~~private or public day schools~~
26 ~~servicing children in grades one and above, including any kindergartens or~~
27 ~~prekindergarten programs attached thereto, as well as camps, and all care given~~
28 without charge, shall be exempt from such provisions.

29 B. Nothing in this Chapter shall apply to facilities licensed by the Department
30 of Health and Hospitals **or the Department of Education.**

31 * * *

1 §1417. Inspections

2 It shall be the duty of the department, through its duly authorized agents, to
3 inspect at regular intervals not to exceed one year, or as deemed necessary by the
4 department, and without previous notice all ~~child care facilities and child-placing~~
5 ~~agencies~~ **specialized providers** subject to the provisions of this Chapter. The
6 department shall also develop and facilitate coordination with and among other
7 authorized agencies making inspections at regular intervals. ~~The facility~~ **A**
8 **specialized provider** shall be open to inspection only during working hours by
9 parents or legal guardians of children in care and by authorized inspection personnel.

10 §1418. Complaints

11 A. It shall be the duty of the department, through its duly authorized agents,
12 to investigate all complaints, ~~(except complaints concerning the prevention or spread~~
13 ~~of communicable diseases)~~, including complaints alleging child abuse, against any
14 ~~child care facility or child-placing agency~~ **specialized provider** as defined in this
15 Chapter. The department may take such action as is authorized by this Chapter. Any
16 complaint received concerning the prevention or spread of communicable diseases
17 shall be immediately referred to the state health officer through the nearest parish
18 health unit for investigation and disposition.

19 * * *

20 §1419. Revocation or refusal to renew license; written notice

21 The department shall have the power to deny, revoke, or refuse to renew a
22 license for a ~~child care facility~~ or specialized provider if an applicant has failed to
23 comply with the provisions of this Chapter or any applicable, published rule or
24 regulation of the department relating to ~~child care facilities~~ and specialized
25 providers. If a license is denied, revoked, or withdrawn, the action shall be effective
26 when made and the department shall notify the applicant, licensee, or specialized
27 provider of such action in writing immediately and of the reason for the denial,
28 revocation, or withdrawal of the license.

29 §1420. Refusal or revocation of license; appeal procedure

30 A. Upon the refusal of the department to grant a license or upon the
31 revocation of a license, the agency, institution, society, corporation, person or

1 persons, or other group having been refused a license or having had a license
 2 revoked shall have the right to appeal such action by submitting a written request to
 3 the secretary of the department within thirty days after receipt of the notification **in**
 4 **the case** of the refusal of the license or, in the case of revocation, within fifteen
 5 calendar days after receipt of the notification of the revocation. The appeal hearings
 6 shall be held no later than thirty days after the request therefor, except as provided
 7 in the Administrative Procedure Act, and shall be conducted in accordance with
 8 applicable regulations of the department and the provisions of R.S. 46:107. This
 9 provision shall in no way preclude the right of the party to seek relief through
 10 mandamus suit against the department, as provided by law.

11 * * *

12 §1421. Operating without or in violation of license; penalty

13 Whoever operates ~~any child care facility or~~ **as a** specialized provider, as
 14 defined in R.S. 46:1403, without a valid license issued by the department shall be
 15 fined not less than one thousand dollars **per day** for each day of such offense.

16 §1422. Operating without or in violation of license; injunctive relief

17 If any ~~child care facility or~~ specialized provider operates without a valid
 18 license issued by the department, the department may file suit in the district court in
 19 the parish in which the ~~facility~~ **specialized provider** is located for injunctive relief,
 20 including a temporary restraining order, to restrain the institution, society, agency,
 21 corporation, person or persons, or any other group operating the ~~facility~~ **specialized**
 22 **provider** or agency from continuing the violation. The state health officer shall have
 23 exclusive authority over all matters involving the prevention or spread of
 24 communicable diseases within a ~~child care facility or~~ specialized provider.

25 §1423. Removal of individuals from facility

26 The department shall remove any child or all children from any ~~facility or~~
 27 ~~agency~~ **specialized provider** when it is determined that one or more violations exist
 28 within the ~~facility~~ **specialized provider** ~~or agency~~ which places the health and well-
 29 being of the child or children in imminent danger; provided, however, that a
 30 contradictory hearing shall be held within seven days thereafter by the district court
 31 of the district to determine whether the action was justified and whether and how

1 long it shall continue.

2 * * *

3 §1427. Parent-child relationship

4 The Department of Children and Family Services shall not interfere with the
5 parent-child relationship regarding the religious training of a child, where all of the
6 following conditions are met:

7 (1) The parent or legal guardian has enrolled their child in a ~~child care facility~~
8 **specialized provider**, including but not limited to a child residential facility,
9 operated by a religious, nonprofit organization which is exempt from federal income
10 taxes pursuant to 26 U.S.C. 501(c)(3).

11 (2) Where, as a condition of enrollment, the child is required to attend
12 religious services or classes and the parent or guardian of the child agrees to such
13 condition.

14 §1428. Immunization information; influenza

15 A. Each licensed ~~child care facility~~ **specialized provider or child-placing**
16 **agency**, before November first of each year, shall make available to each child's
17 parent or legal guardian information relative to the risks associated with influenza
18 and the availability, effectiveness, known contraindications, and possible side effects
19 of the influenza immunization. Such information shall include the causes and
20 symptoms of influenza, the means by which influenza is spread, and the places
21 where a parent or legal guardian may obtain additional information and where a child
22 may be immunized against influenza. Such information shall be updated annually if
23 new information on such disease is available.

24 B.(1) The Department of Health and Hospitals shall develop and provide
25 information on influenza immunization to the Department of Children and Family
26 Services. The Department of Children and Family Services shall provide such
27 information to each licensed ~~child care facility~~ **specialized provider or child-**
28 **placing agency**, which shall make the information available to each child's parent
29 or legal guardian pursuant to Subsection A of this Section.

30 (2) The Department of Health and Hospitals and the Department of Children
31 and Family Services shall determine respectively the most cost-effective and

1 efficient means of distributing such information.

2 C. The Department of Children and Family Services, in consultation with the
3 Department of Health and Hospitals, shall establish by rules and regulations all
4 guidelines and procedures for carrying out the provisions of this Section in
5 accordance with the Administrative Procedure Act.

6 D. Nothing in this Section shall be construed to require any ~~licensed child~~
7 ~~care facility~~ **specialized provider or child-placing agency**, the Department of
8 Children and Family Services, or the Department of Health and Hospitals to provide
9 or pay for immunizations against influenza.

10 * * *

11 §1430. Operating in violation of regulations; penalties and fines

12 A.(1) For violations related to supervision, criminal history record checks,
13 the state central registry disclosure process, staff-to-child ratios, motor vehicle
14 checks, or failure to report critical incidents, the Department of Children and Family
15 Services may issue a written warning that includes a corrective action plan, in lieu
16 of revocation, upon any person or ~~entity~~ **specialized provider** violating these
17 requirements if such condition or occurrence does not pose an imminent threat to the
18 health, safety, rights, or welfare of a child. Failure to implement a corrective action
19 plan issued pursuant to this Section may result in either the assessment of a civil fine
20 or license revocation or may result in both actions being taken by the department.
21 Such civil fine shall not exceed two hundred fifty dollars per day for each
22 assessment; however, the aggregate fines assessed for violations determined in any
23 consecutive twelve-month period shall not exceed two thousand dollars.

24 (2) The department shall adopt rules in accordance with the Administrative
25 Procedure Act which articulate factors in determining the type of sanction imposed
26 including the severity of risk, the actual harm and mitigating circumstances, the
27 failure to implement a written corrective action plan, the history of noncompliance,
28 an explanation of the treatment of continuing and repeat deficiencies, evidence of a
29 good faith effort to comply, and any other relevant factors. ~~The department shall~~
30 ~~develop and adopt rules and regulations required by this Paragraph with input and~~
31 ~~guidance from the Louisiana Advisory Council on Child Care and Early Education.~~

1 The authority to impose sanctions pursuant to this Section shall commence on the
2 effective date of the rules promulgated pursuant to this Section.

3 B. The department shall adopt rules and regulations in accordance with the
4 Administrative Procedure Act to provide for notice to the ~~child care facility~~
5 **specialized provider** or child-placing agency of any violation, for a departmental
6 reconsideration process for sanctions issued, and for an appeal procedure including
7 judicial review. Such appeal shall be suspensive. All appeals pursuant to this
8 Subsection shall be heard by the division of administrative law pursuant to Chapter
9 13-B of Title 49 of the Louisiana Revised Statutes of 1950. The division shall furnish
10 to the facility or agency a copy of the decision, together with notice of the manner
11 for requesting judicial review. During the pendency of an appeal, a ~~child care facility~~
12 **specialized provider** or child-placing agency may continue to receive funding for
13 services provided to those eligible children as determined by the department.

14 C. The department may institute any necessary civil court action to collect
15 fines imposed and not timely appealed. No ~~child care facility~~ **specialized provider**
16 or child-placing agency shall claim imposed fines as reimbursable. Interest shall
17 begin to accrue at the current judicial rate on the day following the date on which any
18 fines become due and payable. All costs of any successful action to collect such
19 fines, including travel expenses and reasonable attorney fees, shall be awarded to the
20 department in addition to the fines.

21 D.(1) Civil fines collected pursuant to the provisions of this Section shall be
22 deposited immediately into the state treasury.

23 (2) After compliance with the requirements of Article VII, Section 9(B) of
24 the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
25 and prior to the monies being placed in the state general fund, an amount equal to the
26 amount deposited as provided in Paragraph (1) of this Subsection shall be credited
27 to a special fund hereby created in the state treasury to be known as the "~~Child Care~~
28 **Specialized Provider** Licensing Trust Fund", hereinafter referred to as "the fund".
29 The monies in the fund shall be subject to annual appropriation and shall be available
30 exclusively for use by the Department of Children and Family Services for the
31 education and training of employees, staff, or other personnel of ~~child care facilities~~

1 specialized provider and child-placing agencies.

2 (3) The monies in the fund shall be invested by the treasurer in the same
3 manner as the monies in the state general fund, and all interest earned from the
4 investment of monies in the fund shall be deposited in and remain to the credit of the
5 fund. All unexpended and unencumbered monies remaining in the fund at the end of
6 the fiscal year shall remain in the fund.

7 Section 6. R.S. 46:1414, 1426, and 1429 are hereby repealed in their entirety.

8 Section 7. Chapter 14-B of Title 46 of the Louisiana Revised Statutes of 1950,
9 comprised of R.S. 46:1441 through 1441.14, and Chapter 14-E of Title 46 of the Louisiana
10 Revised Statutes of 1950, comprised of R.S. 46:1445 through 1448 are hereby repealed in
11 their entirety.

12 Section 8. Sections 1, 2, 4, 5, and 6 of this Act shall become effective on October
13 1, 2014. Sections 3 and 7 of this Act shall become effective on February 1, 2015.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____