

CHAPTER TWO—DEFINITIONS

SC Statute 63-13-20 Definitions

For the purpose of this chapter:

(1) “Caregiver” means any person whose duties include direct care, supervision, and guidance of children in a childcare facility.

(2) “Childcare” means the care, supervision, or guidance of a child or children, unaccompanied by the parent, guardian, or custodian, on a regular basis, for periods of less than twenty-four hours per day, but more than four hours, in a place other than the child’s or the children’s own home or homes.

***POLICY:** If an owner or sponsor of a child care facility that provides care for the same children for more than four hours per day opens another child care facility in the same building or within close proximity to the existing facility, the combined hours of operation and the minimum age of the children will determine the need for a license or registration.*

Close proximity is to be defined as: (1) located at the same address, (2) located in a campus setting, (3) located in a building immediately adjacent to the existing facility, or (4) located in such a manner as to allow the sharing of any of the buildings’ resources, such as kitchens, restrooms, entries, or parking. (4/1/2008)

(3) “Childcare center” means any facility which regularly receives thirteen or more children for childcare.

(4) “Childcare facilities” means a facility which provides care, supervision, or guidance for a minor child who is not related by blood, marriage, or adoption to the owner or operator of the facility whether or not the facility is operated for profit and whether or not the facility makes a charge for services offered by it. This definition includes, but is not limited to, day nurseries, nursery schools, childcare centers, group childcare homes, and family childcare homes. The term does not include:

(a) an educational facility, whether private or public, which operates solely for educational purposes in grade one or above;

(b) five-year-old kindergarten programs;

(c) kindergartens or nursery schools or other daytime programs, with or without stated educational purposes, operating no more than four hours a day and receiving children younger than lawful school age;

(d) facilities operated for more than four hours a day in connection with a shopping center or service or other similar facility, where the same children are cared for less than four hours a day and not on a regular basis as defined in this chapter while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and immediately available; however, these

facilities must meet local fire and sanitation requirements and maintain documentation on these requirements on file at the facility available for public inspection;

***POLICY:** The parent is engaged in an activity in the building or larger structure, such as a mall, gym, or grocery store; or, in the case of an outdoor mall, within brief walking distance, engaged in similarly-related activity, and available by telephone.*

(e) school vacation or school holiday day camps for children operating in distinct sessions running less than three weeks per session unless the day camp permits children to enroll in successive sessions so that their total attendance may exceed three weeks;

(f) summer resident camps for children;

(g) bible schools normally conducted during vacation periods;

(h) facilities for the mentally retarded provided for in Chapter 21, Title 44;

(i) facilities for the mentally ill as provided for in Chapter 17, Title 44;

(j) childcare centers and group childcare homes owned and operated by a local church congregation or an established religious denomination or a religious college or university which does not receive state or federal financial assistance for childcare services; however, these facilities must comply with the provisions of Article 9, and Sections 63-13-60 and 63-13-110 and that these facilities voluntarily may elect to become licensed according to the process as set forth in Article 3 and Sections 63-13-30, 63-13-40, 63-13-70, 63-13-80, 63-13-90, 63-13-100, 63-13-160, and 63-13-170.

(5) “Childcare operator” means the person, corporation, partnership, voluntary association, or other public or private organization ultimately responsible for the overall operation of a childcare facility.

(6) “Committee” means the State Advisory Committee on the Regulation of Childcare Facilities, named under this chapter to advise the department on regulatory matters related to childcare facilities.

(7) “Complaint” means a written statement reporting unsatisfactory conditions in a childcare facility.

(8) “Curriculum” means and includes design of courses, teaching philosophy, methods, and activities.

(9) “Declaratory order” means a written statement on the part of the department approving plans for construction or renovation ensuring against the imposition of more stringent regulations at a later date.

(10) “Deficiency correction notice” means a written statement on the part of the department notifying a childcare facility which is not complying with any

applicable regulations to correct the deficiencies stated in the notice within a reasonable time limit.

(11) “Department” means the State Department of Social Services, the agency designated to administer the regulation of childcare facilities under this chapter, with the advice of the State Advisory Committee on the Regulation of Childcare Facilities.

(12) “Director” means the administrative head of the department.

(13) “Family childcare home” means a facility within a residence occupied by the operator in which childcare is regularly provided for no more than six children, unattended by a parent or legal guardian, including those children living in the home and children received for childcare who are related to the resident caregiver. However, an occupied residence in which childcare is provided only for a child or children related to the resident caregiver or only for the child or children of one unrelated family or only for a combination of these children is not a family childcare home.

(14) “Group childcare home” means a facility within a residence occupied by the operator which regularly provides childcare for at least seven but not more than twelve children, unattended by a parent or a legal guardian including those children living in the home and children received for childcare who are related to the resident caregiver. However, an occupied residence in which childcare is provided only for a child or children related to the resident caregiver or only for the child or children of one unrelated family or only for a combination of these children is not a group childcare home.

(15) “Infant” means a child age twelve months or younger for the purposes of this chapter.

(16) “Minor child” means a person who has not reached the eighteenth birthday.

(17) “Private childcare facility” means a facility as defined under item b. of this section which is not a public childcare facility, and which is able to be further classified as follows:

(a) “Entrepreneurial childcare facility” means a facility whose childcare operator may receive public assistance funds directly or indirectly but which is managed as a profit-making business enterprise and whose corporation or private ownership is liable for payment of federal and state income taxes on profits earned by the facility.

(b) “Nonprofit childcare facility” means a facility whose childcare operator may receive public assistance funds directly or indirectly but which is operated under the tutelage and control of a nonprofit or eleemosynary corporation, foundation, association, or other organization whose ownership may or may not be liable for payment of federal and state income taxes on profits earned by the facility.

(18) “Provisional approval” means a written notice issued by the department to a department, agency, or institution of the State, or a county, city, or other political

subdivision approving the commencement of the operations of a public childcare center or group childcare home although the operator is temporarily unable to comply with all of the requirements for approval.

(19) “Provisional license” means a license issued by the department to an operator of a private childcare center or group childcare home or a family childcare home which elects to be licensed authorizing the licensee to begin operations although the licensee temporarily is unable to comply with all of the requirements for a license.

(20) “Public childcare facility” means a facility as defined under item b of this section which was created and exists by act of the State, or a county, city or other political subdivision, whose operation remains under the tutelage and control of a governmental agency.

(21) “Registration” means the process whereby childcare centers and group childcare homes owned and operated by a church or a publicly recognized religious educational or religious charitable institution are regulated under this chapter and the process whereby all family childcare homes are regulated under this chapter.

(22) “Regular approval” means a written notice issued by the department for a two-year period to a department, agency, or institution of the State, or a county, city, or other political subdivision, approving the operation of a public childcare center or group childcare home in accordance with the provisions of the notice, this chapter, and the regulations of the department.

(23) “Regular license” means a license issued by the department for two years to an operator of a private childcare center or group childcare home or a family childcare home which elects to be licensed showing that the licensee is in compliance with the provisions of this chapter and the regulations of the department at the time of issuance and authorizing the licensee to operate in accordance with the license, this chapter, and the regulations of the department.

(24) “Regularly, or on a regular basis”: these terms refer to the frequency with which childcare services are available and provided at a facility in any one week; these terms mean the availability and provision of periods of daycare on more than two days in such week.

(25) “Related” means any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin of the first degree.

(26) “Renewal” means in regard to childcare centers and group childcare homes, to grant an extension of a regular license or regular approval for another two-year period provided an investigation of such facilities verifies that they are in compliance with the applicable regulations, in regard to family childcare homes, to place the name of the operator on the registration list for another year provided procedures indicated in this chapter have been completed.

(27) “Revocation” means to void the regular license of a childcare center or group childcare home.

(28) “Summer day camp for children” means a program offered during the summer that provides recreational activities primarily during daytime hours throughout the period of the program and may include an occasional overnight activity under the supervision of the operator.

(29) “Summer resident camp for children” means a twenty-four-hour residential program offered during the summer that provides recreational activities for children.

POLICY: Summer camps are an extension of after-school programs. Summer camps provide activities for children. Fire and DHEC documentation must be available on-site to show compliance with health and safety regulations. (1/31/06 revision pending)

114-501 A. Terms used in South Carolina Regulations, Chapter 114, Article 5, Part A, shall be all definitions cited in Section 63-13-10 et seq., Code of Laws of South Carolina in addition to the definitions that follow:

114-501 A. (1) **Applicant:** A person 21 years of age or older, representing a corporation, partnership, voluntary association, other public or private organization who has completed, signed and submitted a Department of Social Services application form and other requirements to the Department in order to obtain a child care center license or approval.

114-501 A. (2) **Approval:** A written notice issued by the Department to a department, agency or institution of the State, or a county, city or other political subdivision, not otherwise regularly licensed, approving the commencement of operations of a public child care center.

114-501 A. (3) **Blood-borne pathogens:** Pathogenic microorganisms that are present in human blood that can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

114-501 A. (4) **Center Director:** The on-site staff person, who is responsible for the daily operation of a child care center, including but not limited to supervision of staff and children. The center director can only have responsibility for one center and may not hold another full-time job during the hours of center operation.

POLICY: If the director has a second job, the director shall provide sufficient information for the Licensing Specialist to determine the number of hours and the location of the second job in order to ensure regulatory compliance. (1/31/06)

POLICY: The center director must be a full-time employee and must be in charge on a regular basis for more hours per day than the center director designee. (1/31/06)

POLICY: The center director or co-director may serve as a teacher/caregiver as long as it does not interfere with the responsibility of being the director. (8/1/06)

POLICY: The center director or co-director may have a Registered Family Child Care Home listed in their name, but they must hire a qualified person to operate that facility because being a director or co-director of a child care center prohibits them from having another full-time job. (2/27/12)

114-501 A. (5) **Center Co-Director:** The on-site staff person who is responsible for the daily operation of a child care center when the director is not present including, but not limited to, the supervision of staff and children.

POLICY: *The center co-director must meet the same qualifications as the center director. (1/31/06)*

114-501 A. (6) **Center Director Designee:** The on-site staff person who assumes the responsibilities of the Director for limited periods of time, when neither the Director nor Co-Director is on-site.

POLICY: *The center director designee may be a part-time or full-time employee but may not be the emergency person nor be in charge for more hours per day on a regular basis than the center director. (1/31/06)*

114-501 A. (7) **Central Registry of Child Abuse and Neglect:** An automated, computerized listing, maintained by the Department of Social Services containing the names(s), address(es), birth date(s), identifying characteristics and other information about individual(s) who have been listed on the registry due to the determination of perpetrating abuse or neglect upon a child.

114-501 A. (8) **Child:** An individual, from birth through 15 years of age (chronologically), receiving care in a child care center; or up to 18 years of age if the child qualifies as special needs.

114-501 A. (9) **Child care center:** A center that is licensed for thirteen (13) or more children for care.

114-501 A. (10) **Complaint:** Statement(s) reporting unsatisfactory conditions in a child care facility.

114-501 A. (11) **Complete Application:** An application is complete on the date of receipt of the last document required by the Department in order to issue a license/approval.

114-501 A. (12) **Department:** Refers to the Department of Social Services.

POLICY: *Department of Social Services refers specifically to DSS Child Care Licensing and Regulatory Services. (1/31/06)*

114-501 A. (13) **Emergency Person:** An individual 18 years of age or older, not regularly employed by the child care center who is immediately available to serve as staff in emergency situations. This person shall meet all requirements of an employed teacher/caregiver, with the exception of training.

114-501 A. (14) **Infant:** A child under 12 months of age.

114-501 A. (15) **License:** A written notice issued by the Department to a private facility approving the commencement of operations of a child care center.

114-501 A. (16) **Lifeguard:** A person having the qualifications of and possessing a current American Red Cross, YMCA, or equivalent Lifeguard Certificate, current First Aid Certificate and current CPR (which includes adult, child, and infant) Certificate.

114-501 A. (17) **Owner:** The owner may be independent of the staff of the child care facility and not be required to be on the premises. However, the owner can be the director or a teacher/caregiver. If the owner serves in the capacity of staff and directly supervises children, he/she shall have state and federal fingerprint reviews completed in accordance with Section 63-13-40 et. seq. Code of Laws of SC (1976), as amended, in addition to meeting all other requirements.

- 114-501 A. (18) **Parent:** The biological or adoptive mother or father, the legal guardian of the child or the individual agency with custody of the child.
- 114-501 A. (19) **Preschool Child:** A child 3 or 4 years of age or older but not yet eligible for public kindergarten.
- 114-501 A. (20) **Provisional approval:** A written notice issued by the Department to a department, agency or institution of the State, or a county, city or other political subdivision approving the commencement of operations of a public child care center although the operator is temporarily unable to comply with all of the requirements for approval.
- 114-501 A. (21) **Provisional license:** A license issued by the Department to a director when the director is temporarily unable to comply with all the requirements for a license/approval.
- 114-501 A. (22) **Regular approval:** A written notice issued by the Department for a two-year period to a department, agency or institution of the State, or a county, city or other political subdivision, approving the operation of a public child care center in accordance with the provisions of the regulations of the Department.
- 114-501 A. (23) **Regular license:** A license issued by the Department for two years to a director showing that the licensee is in compliance with the regulations of the Department at the time of issuance and authorizing the licensee to operate in accordance with the regulations of the Department.
- 114-501 A. (24) **Renewal:** To grant an extension of a regular license.
- 114-501 A. (25) **Revocation:** To void the regular license of a child care center.
- 114-501 A. (26) **School-aged Child:** A child at least old enough to enroll in public kindergarten.
- 114-501 A. (27) **Sex Offender Registry:** A statewide computerized listing of names and other identifying information on convicted sex offenders maintained and updated by the State Law Enforcement Division (SLED) and authorized by Section 23-3-400 et. seq., Code of Laws of South Carolina, 1976, as amended. (SEE SECTION 23-3-400 IN RESOURCE MANUAL SECTION 2.)
- 114-501 A. (28) **Staff:** Full-time and part-time management, administrative, teaching/caregiving, program, maintenance, food service and service personnel; emergency and substitute personnel; supervised students; supervised student teachers and supervised volunteers.
- 114-501 A. (29) **Staff:Child Ratio:** The maximum number of children permitted per teacher/caregiver.
- 114-501 A. (30) **Student Teacher:** An individual enrolled in his/her final practicum to be qualified for teacher certification. He or she shall meet the same health standards as other staff and undergo background investigation. He or she may be included in staff:child ratios.
- 114-501 A. (31) **Student Volunteer:** An individual at least 16 years of age from a recognized educational institution or who may receive credit, reimbursement for expenses or a stipend for providing services in a trainee capacity under supervision of a staff member at all times when providing direct care to children shall not be counted in the staff:child ratio.
- 114-501 A. (32) **Supervision:** Care provided to an individual child or a group of children. Adequate supervision requires staff awareness of and responsibility for the ongoing activity of each child, knowledge of activity requirements, and children's needs and accountability for their care. Adequate supervision also requires the director, and/or staff being near and having ready access to children in order to intervene when needed. Supervision requires adequate staff to meet staff:child ratios, being in the room at all times or on the playground at all times when children are present.

- 114-501 A. (33) **Teacher/Caregiver:** Any person whose duties include direct care, supervision, and guidance of children in a child care center.
- 114-501 A. (34) **Toddler:** A child 12 months of age or older, but younger than 24 months of age.
- 114-501 A. (35) **Training:** Participation by child care center staff, in workshops, conferences, educational or provider associations, formal schooling, in-service training, or planned learning opportunities provided by qualified individuals. Training shall be age appropriate for the child population served by the child care center and in such subject areas related to: child care, child growth and development and/or early childhood education, nutrition, infection control/communicable disease management and causes, health and safety, signs and treatment of child abuse and/or neglect and shall include alternatives to corporal punishment. Training for directors may also be in areas related to supervision of child care staff or program administration.
- 114-501 A. (36) **Two-year olds:** A child 24 months of age or older but younger than 3 years of age.
- 114-501 A. (37) **Volunteer:** An individual parent, grandparent, other professional or skilled individual artist or crafts person at least 16 years of age infrequently assisting with the daily activities for children in a child care center who provides services without compensation and who is supervised by staff at all times when providing direct care to children. An individual meeting this definition is not required to undergo a fingerprint background check or health screening and is not counted in staff:child ratios.