

## CHAPTER FOUR—MANAGEMENT, ADMINISTRATION & STAFFING

### Liability Insurance

#### SC Statute 63-13-210.(A)(B)

Notice to parents that childcare business does not carry liability insurance.

(A) An owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63-13-20, who does not carry liability insurance for the operation of his childcare business, shall, by no later than January 1, 2009, obtain signed statements from the custodial parent or parents or guardian or guardians of each child currently enrolled in the childcare center, group childcare home, or family childcare home indicating that the parent or parents or guardian or guardians have received notice that the childcare center, group childcare home, or family childcare home does not carry liability insurance for the operation of its childcare business. The owner or operator of a childcare center, group childcare home, or family childcare home must maintain a file of these signed statements at the home during the period of time a child is enrolled. For new enrollees to a childcare center, group childcare home, or family childcare home, the owner or operator must provide the parent or parents or guardian or guardians of a new enrollee with this information at the time of enrollment, obtain a signed statement from each parent or guardian at the time of enrollment, and maintain these signed statements at the home during the period of time a child is enrolled.

(B) If an owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63-13-20, has liability insurance for the operation of his childcare business that lapses or is canceled and not reinstated or replaced, the owner or operator shall obtain and maintain statements in accordance with subsection (A) from the custodial parent or parents or guardian or guardians of each child enrolled in the childcare center, group childcare home, or family childcare home no later than thirty days after the liability insurance lapses or is canceled.

***POLICY: All child care facilities shall be asked to provide proof of liability insurance. If a facility does not have insurance coverage, they shall be informed of the requirement to give proper notification to parents of enrolled children. (1/29/09 revised 2/27/12)***

### Display of License/Approval

#### SC Statute 63-13-440.a.

License; private centers and homes.

Each child care center or group child care home shall maintain its current license displayed in a prominent place at all times and must state its license number in all advertisements of the child care center or group child care home.

- 114-503 A. (1) The center shall display the current license/approval, as well as any violations in a prominent public place in the center. The back of the license/approval shall be displayed if deficiencies are listed.
- 114-503 A. (2) When advertising or issuing other public notifications of the service provided, the official license number issued by the Department shall be included.

## **Capacity**

### **SC Statute 63-13-420.(C) Issuance of license, private centers and homes.**

**Each license must be conditioned by stating clearly the name and address of the licensee, the address of the childcare center or group childcare home, and the number of children who may be served.**

- 114-503 B. (1) No child care center shall have present at any one time children in excess of the number for which it is licensed/approved.

***POLICY: When a special event or program is being held at the facility and parents are present, the number of children present may exceed the number for which the center is licensed/approved. (1/31/06)***

- 114-503 B. (2) Exception: In the event of a natural disaster or unscheduled closing of a child care center, the capacity may be exceeded temporarily for a maximum of 90 days to accommodate the displaced children. The director shall notify the Department of the situation and maintain appropriate staff:child ratios at all times. Required records shall be kept on file for the new enrollees.

***POLICY: Department staff shall consult the South Carolina State Fire Marshal's Office and DHEC on capacity issues. (1/31/06)***

***POLICY: A natural disaster is defined as fire, hurricane, tornado, flood, extreme weather conditions, etc. that may cause a center to close. An unscheduled closing is defined as an unexpected closing due to an unforeseen emergency circumstance which may include a natural disaster. (1/31/06)***

## **Child Abuse & Neglect**

### **SC Code of Laws, Title 63, Chapter 7 Children's Code SC Statute 63-7-310.(A) (B) Persons required or permitted to report**

**(A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school teacher, counselor, principal, assistant principal, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, police or law enforcement officer, undertaker, funeral home director or employee of a funeral home, persons**

responsible for processing films, computer technician, or a judge must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63-7-20.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(SEE RESOURCE MANUAL SECTION 4 FOR INFORMATION ON REPORTING CHILD ABUSE)

**SC Code of Laws, Title 63, Chapter 7 Children's Code  
SC Statute 63-7-20.(4)  
Definitions**

(4) "Child abuse or neglect" or "harm" occurs when the parent, guardian, or other person responsible for the child's welfare:

(a) inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

(i) is administered by a parent or person in loco parentis;

(ii) is perpetrated for the sole purpose of restraining or correcting the child;

(iii) is reasonable in manner and moderate in degree;

(iv) has not brought about permanent or lasting damage to the child; and

(v) is not reckless or grossly negligent behavior by the parents.

(b) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

(c) fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59, supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law;

(d) abandons the child;

- (e) encourages, condones, or approves the commission of delinquent acts by the child and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or
- (f) has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.

**SC Code of Laws, Title 63, Chapter 7 Children's Code  
SC Statute 63-7-20.(16)**

(16) "Person responsible for a child's welfare" includes the child's parent, guardian, foster parent, an operator, employee, or caregiver, as defined by Section 63-13-20, of a public or private residential home, institution, agency, or childcare facility or an adult who has assumed the role or responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child. A person whose only role is as a caregiver and whose contact is only incidental with a child, such as a babysitter or a person who has only incidental contact but may not be a caretaker, has not assumed the role or responsibility of a parent or guardian. An investigation pursuant to Section 63-7-920 must be initiated when the information contained in a report otherwise sufficient under this section does not establish whether the person has assumed the role or responsibility of a parent or guardian for the child.

114-503 C. (1) The center shall immediately report suspected child abuse or child neglect to the Department's Office of Child Protective and Preventive Services or to local law enforcement in accordance with South Carolina Code Statute 63-7-20(16).

**PROCEDURE: ABUSE AND NEGLECT COMPLAINTS/INVESTIGATIONS**

**1. Receipt of a Complaint**

- a. When a complainant calls the regional office to make a complaint, the complainant is informed that he/she is required to report suspected abuse or neglect to OHAN. The regional office will also obtain as much information from the complainant as possible. After gathering information, the Regulatory Specialist should transfer complainant's call to OHAN immediately. The Regulatory Specialist will document actions in the file and follow up with OHAN immediately thus verifying the complainant reported the information.
  - b. When the Central Office receives a complaint document from OHAN regarding abuse or neglect, the Central Office will forward the information to the appropriate Regional Office.
2. If a complaint is accepted by OHAN, a CPS Investigation Summary Form (DSS Form 3021) must be completed in addition to DSS Form 2929 and placed in the complaint section of the file.
  3. The Regulatory Specialist should inform the Regional Supervisor regarding the complaint to OHAN.

4. **The Regulatory Specialist must make an unannounced visit within 5 (business) days of receipt of a complaint unless OHAN suggests otherwise. (If complaint is an illegal operation, the Regulatory Specialist must then follow illegal operations procedures.)**
  - **Introduce yourself and explain to the operator/director the purpose of the visit.**
  - **Conduct exit interview with the operator/director and discuss findings and other deficiencies, if any.**
5. **Document findings on DSS Form 2929.**
6. **If any deficiencies were cited, complete DSS Form 2942.**
  - **Obtain director's signature on 2942 and leave copy with director.**
7. **Make follow up visit to verify compliance.**
8. **Enter all founded complaints on website. (11/1/06)**

- 114-503 C. (2) The director and staff shall cooperate with Department staff during an investigation of child abuse or neglect. Cooperation shall include the following:
- (a) Participate in informational conferences with Child Protective and Preventive Services staff;
  - (b) Release records as appropriate, of children and staff upon request; and
  - (c) Allow access to the center premises for inspection and investigation of the child abuse allegation by the Department and other officials as permitted by statute.

### **Reporting of Incidents**

- 114-503 D. (1) The center shall report the following incidents to the parents/guardians immediately and provide written notification to the Department within 48 hours after the occurrence:
- (a) Accidents or injuries involving any child occurring at the center requiring professional medical treatment, and

**DEFINITION:** *"At the center" is defined as while in the care of the child care provider.*  
(6/1/07)

**POLICY:** *If human breast milk intended for an infant is accidentally fed to another child, the facility shall follow the exposure control plan which is a required element of blood borne pathogens training. The Office of Child Care Licensing and the parents of all involved children must be notified immediately.* (7/30/09)

- (b) Child or staff occurrences of communicable diseases that the Department of Health and Environmental Control (DHEC) requires to be reported in its School Exclusion List. **(SEE SCHOOL EXCLUSION LIST IN RESOURCE MANUAL SECTION 4.)**

- 114-503 D. (2) The following incidents shall be reported to the Department immediately:
- (a) A death of a child or staff person that occurs at the center;

- (b) A child who is missing from the premises or who is left unattended in a vehicle operated by the child care center;
- (c) Major structural damage to center;
- (d) Natural or man-made disasters, including extreme weather conditions, which cause the center to be closed for more than one day of scheduled operation;
- (e) An occurrence requiring the services of a fire or police department, which affects the health and safety of children;
- (f) Charges or convictions of crimes against the owner, director, or any staff person;

***POLICY: If it becomes known that an employee/caregiver of a child care facility has a conviction that would prevent him/her from working in a child care facility and she continues to frequent the facility, a referral to the Office of General Counsel is required. (6/1/07)***

***POLICY: When the Office of Child Care Licensing gains information that a child care employee has been charged or convicted of a crime but failed to report the incident to Child Care Licensing, a staffing must be held to determine whether or not the incident should be referred to the Division of Investigation for possible notification of the appropriate office of law enforcement (7/30/09).***

**PROCEDURE: Outline questions that need to be addressed. See Form 2925 Director/Staff Evidence on Non-Conviction and Statement of Compliance.**

- (g) Reports of alleged child abuse involving the owner, director, or any staff person;
- (h) A follow-up report shall be submitted to the Department as soon as an investigation of the facility is completed and corrective action is taken; and

***POLICY: The follow-up reports from the child care center shall include any documents related to the incident including, but not limited to, fire reports, police reports, and any other information related to the incident. The report shall include any new procedures enacted as a means to correct the problem. (1/31/06)***

- (i) Parents should be notified if a legal or health issue occurs which impacts the health and safety of his/her child. This notification should occur at the time of pick-up or on the next day the child is in care.

***POLICY: When directors self-report an incident that has occurred at their facility, the Department may offer a correction plan and/or technical assistance and make the proper referral to the appropriate agencies. Subsequent calls from the public or other agencies concerning the same issue shall be handled as a complaint. (5/1/06)***

## **Death of a Child**

**SC Statute 63-13-440.(C).  
License; private centers and homes.**

Upon occurrence of death of a child on the premises of a childcare center or group childcare home in which the child is enrolled or while under the constructive control of the holder of the license of the facility, it is the responsibility of the holder of the license to notify the department within forty-eight hours and follow up with a written report as soon as the stated cause of death is certified by the appropriate government official.

- 114-503 E. (1) If the child dies while at the facility, the following shall be done:
- (a) Immediately notify emergency medical personnel, the child's parents, and law enforcement;
  - (b) Immediately notify the licensing agency; and
  - (c) Provide information for children and parents as appropriate.

### **PROCEDURE: DEATH OF A CHILD**

1. Document notification of death of a child.
2. Notify supervisor and/or Central Office.
3. Refer to OHAN who will notify law enforcement.
4. Fax copy of documentation to Central Office to Director of Child Care Regulatory Services. Director will notify legal office as well as Office of Constituent Services.
5. If notification received as a complaint, complete complaint form.
6. If notification received from provider, request written documentation.
7. Fax copy of documentation to Central Office.
8. Make unannounced visit within 24 hours to home or facility where death occurred.
  - A. Illegal operation – Refer to illegal operation procedures.
  - B. Registered or Licensed Family Child Care Home, Group Child Care Home, or Child Care Center
    - i. Interview to secure information surrounding death;
    - ii. Verify regulatory compliance.
9. Issue citation letter regarding any deficiencies.
10. Follow up as needed. (11/1/06)

## **Parent Access and Communication**

- 114-503 F. (1) The center shall permit the parent of a child in care free and full access to his or her child without prior notice, while their child is receiving care, unless there is a court order limiting parental access. This free access must not disrupt instructional activities and classroom routines.

**POLICY: If a parent/guardian arrives at the child care center and the door is locked, someone from the center must be readily available to open the door to allow the parent/guardian to enter. (1/31/06)**



114-503 F. (2) The center shall develop a policy for the release of children, which includes a security system to prevent the inappropriate release of a child to an unauthorized person. This policy shall be communicated with the parent upon admission.

**POLICY: Release of children policies shall include a description of how the facility will handle the situation if a parent arrives who is intoxicated or otherwise incapable of taking the child home safely, or if a non-custodial parent attempts to claim the child without the consent of the custodial parent. (8/25/08)**

114-503 F. (3) Parents shall be provided with the following information upon admission:

- (a) The right of parents to free and full access to their child in accordance with 114-503.F.(1);
- (b) The policy and procedures on release of children specified in 114-503.F.(2);
- (c) The program activity schedule for their child's age group and child care area;
- (d) The parent's responsibility to obtain necessary immunizations and physical examinations for their child;
- (e) The policy and procedures for the administration of medications; and
- (f) The policy and practices regarding the discipline and behavior management of children. This statement shall be re-signed if any discipline policy changes are made.

114-503 F. (4) Parents and staff shall sign and date an agreement, maintained on file and updated annually, that both parties have read and understand all policies relating to the operation of the facility.

## **Child Records**

### **SC Statute 63-13-70 Register; private centers and homes.**

**Every childcare center or group childcare home shall maintain a register setting forth essential facts concerning each child enrolled under the age of eighteen years.**

114-503 G. (1) The facility shall keep a separate record for each child.

114-503 G. (2) The file shall be kept in a confidential manner, but shall be immediately available to the Department, the child's teacher/caregiver, parent, or guardian upon request.

114-503 G. (3) Access to records is limited to the above unless requested by court order.

114-503 G. (4) Entries in a child's record shall be legible, dated and signed by the individual making the entry.

114-503 G. (5) A child's record shall be maintained on file at the child care center and made available to the Department upon request, and it shall contain the following:

- (a) Child's full legal name, nickname, birth date, date of enrollment, current home address and home telephone number;



- (b) Full name of both parent(s)/guardian(s), work and home telephone numbers, or telephone number(s) where they can be reached during the time the child is in the center;
  - (c) Name(s), address(es) and telephone number(s) of person(s) who can assume responsibility for the child in an emergency if the parent(s)/guardian(s) cannot be reached;
  - (d) Name, address, and telephone number of family physician or health resource;
  - (e) Name(s), address(es) and verification of identification, such as valid driver's license, other picture identification or personal family code word of person(s) authorized to take the child from the child care center;
  - (f) Accurate records of daily attendance for each child;
  - (g) Authorization from parent(s)/guardian(s) for child to obtain emergency medical treatment;
  - (h) Authorization from parent(s)/guardian(s) for child to be transported to and from the center during field trips and other away from the center activities;
  - (i) Authorization from parent(s)/guardian(s) for child to participate in swimming activities; and
  - (j) A written statement, signed by the parents, acknowledging their understanding and acceptance of the disciplinary policies of the center.
- 114-503 G. (6) A health record shall be maintained in the center for each child enrolled, and it shall include all of the following information:
- a) A signed statement of the child's health prior to admission to the child care center on the appropriate DSS form;
  - (b) A current South Carolina certificate of Immunization; and
  - (c) Other health information if deemed necessary by the director of the center and/or by parent(s)/guardian(s).
- 114-503 G. (7) Emergency information for each child shall be easily and immediately accessible while at the center, during transportation, and during any trips away from the premises, and it shall include the following:
- (a) The full name of both parents/guardian, and updated address, work, home and mobile numbers where they can be reached during the time the child is in the center;
  - (b) The name, address, telephone number and relationship of at least two individuals designated by the parents/guardian to be contacted in an emergency and who have the authority to obtain emergency medical treatment for the child;
  - (c) The name, address and telephone number of the child's physician, and the emergency care, medical and dental care provider; and
  - (d) Health insurance information.
- 114-503 G. (8) Emergency information shall be updated by the parent as changes occur.

### **Staff Records**

- 114-503 H. Staff records shall include the following:
- (1) Names, positions and hours of duty of staff members;
  - (2) Written policies that refer to or apply to DSS licensing regulations;
  - (3) Three letters of reference for the center director;
  - (4) Criminal history background records check forms for the director, staff, emergency person(s), and volunteer(s);

***POLICY: Facility directors shall be responsible for maintaining fingerprints on staff. DSS should be able to access fingerprint information on-line. (8/21/07)***

- (5) Record of training for director and staff; and
- (6) Written statements signed by all staff members regarding disciplinary policies of the center.
- (7) The director shall maintain health records in the center for himself/herself, staff, and emergency person(s) in accordance with 114-505 G.(1)(a) through (c).

### **Confidentiality and Applicable Laws and Regulations**

114-503 I.(1) The center shall have written policy to safeguard the confidentiality of all records.

114-503 I.(2) A child's record, emergency information, photograph and other information about the child or family and information that may identify a child by name or address is confidential and may not be copied, posted on a web site or disclosed to unauthorized persons, without written consent from the child's parent.

***POLICY: No child or other person in a child care facility may be photographed by Child Care Licensing even if the purpose is to document a deficiency. If children are present, and a photograph of the deficiency cannot be taken without including children or staff, written documentation of the deficiency on the On Site Deficiency Citation form is still sufficient. (1/29/09)***

***POLICY: Child care records are largely public information, and copies may be obtained under the Freedom of Information Act (FOIA) by submitting a written request to the Office of General Counsel. This process applies to all requests. (04/01/2008)***

114-503 I.(3) The center shall comply with all applicable federal, state, and local laws, regulations, and ordinances.

114-503 I.(4) The center shall make available at least one copy of Section 63-13-20 et seq., Code of Laws of South Carolina, a copy of sections of the Children's Code related to child abuse and neglect and a copy of the current regulations for child care centers that will be provided by the Department.

### **Communication**

114-503 J. (1) The center shall have an operable telephone with an outside line that is accessible to staff persons in emergencies.

***POLICY: The outside line must be a land line that is available to the 911 locator service, listed with the telephone operator, and available to the Department. Cell phones are acceptable in addition to the land line. (5/1/06)***

- (2) Emergency telephone numbers for the police, fire department, ambulance service and poison control center shall be posted by each telephone.
- (3) The center shall have an internal means of communication among staff.

***POLICY: Internal means of communication may include an intercom, walkie-talkies, and floaters. (1/31/06)***

## **Staffing – Child Abuse Checks**

### **SC Statute 63-7-1940 Court order for placement in Central Registry.**

**(A) At a hearing pursuant to Section 63-7-1650 or 63-7-1660, at which the court orders that a child be taken or retained in custody or finds that the child was abused or neglected, the court:**

**(1) must order that a person’s name be entered in the Central Registry of Child Abuse and Neglect if the court finds that there is a preponderance of evidence that the person physically or sexually abused or wilfully or recklessly neglected the child. Placement on the Central Registry cannot be waived by any party or by the court. However, if the only form of physical abuse that is found by the court is excessive corporal punishment, the court only may order that the person’s name be entered in the Central Registry if item (2) applies;**

**(2) may, except as provided for in item (1), order that the person’s name be entered in the Central Registry if the court finds by a preponderance of evidence:**

**(a) that the person abused or neglected the child in any manner, including the use of excessive corporal punishment; and**

**(b) that the nature and circumstances of the abuse indicate that the person would present a significant risk of committing physical or sexual abuse or wilful or reckless neglect if the person were in a position or setting outside of the person’s home that involves care of or substantial contact with children.**

### **SC Statute 63-7-1980 Screening against the Central Registry.**

**(A) When a statute or regulation makes determination of a person’s history of child abuse or neglect a condition for employment or volunteer service in a facility or other entity regulated by the department, the person must be screened against the Central Registry of Child Abuse and Neglect before employment or service in the volunteer role. The person must be screened each time the license, registration, or other operating approval of the facility or other entity is renewed.**

114-503 K.(1) Child abuse checks

(a) The director or staff shall not have been determined to have committed an act of child abuse or neglect or have been convicted of any crime listed in Chapter 3 of Title 16, Offenses Against the Person, any crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency or for the Crime of Contributing to the Delinquency of a Minor in Section 16-17-490.

114-503 K.(1) (b) A check of the South Carolina Central Registry of Child Abuse and Neglect shall be requested by the director(s) on each staff person, except for volunteers in accordance with the following time lines:

- (i) For the director(s) and at least two staff persons prior to the initial issuance of a regular or provisional license/approval.
- (ii) For the director(s) and staff prior to employment.
- (iii) For all other staff persons (including the emergency person) prior to employment.
- (iv) For all persons hired by the child care facility at each license/approval renewal.

**POLICY:** All initial licenses, registrations, and approvals issued to centers require a minimum of three staff members. One staff member must be a qualified director, and the other two staff members must be caregivers. (1/29/09)

**POLICY:** A check or money order in the appropriate amount shall accompany the request for a check of the SC Central Registry of Child Abuse and Neglect unless the facility has been pre-approved for direct billing by the Department. (revised 5/1/06)

**POLICY:** Central Registry check forms are valid for one year from the date they are signed by the staff member. If the employee goes to another facility without a break in service, then the results of the Central Registry checks are valid from the date the results were obtained, or if the staff member remains employed by the facility until the next renewal. (revised 5/1/06)

**POLICY:** Central Registry Check Forms from other South Carolina state agencies are acceptable if they are current within one year. (8/1/06)

114-503 K.(1) (c) No child care center shall employ or retain an individual who has been determined to have committed an act of child abuse or neglect.

**POLICY:** If an employee has committed an act of child abuse or neglect, the Child Care Regulatory Specialist will ask the facility director/operator to release the employee or ask the employee to voluntarily resign. If this request is refused, Regulatory staff should meet with his/her supervisor to staff this case for further legal action. (8/21/07)

### **Staffing – Background Criminal History Checks**

#### **SC Statute 63-13-40 A., B., D., E., F. Background Checks for Employment.**

**(A)** No childcare center, group childcare home, family childcare home, or church or religious childcare center may employ a person or engage the services of a caregiver who is required to register under the sex offender registry act pursuant to Section 23-3-430 or who has been convicted of:

- (1)** a crime listed in Chapter 3 of Title 16, Offenses Against the Person;
- (2)** a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;
- (3)** the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;
- (4)** the felonies classified in Section 16-1-10(A), except that this prohibition does not apply to Section 56-5-2930, the Class F felony of driving under the influence pursuant to Section 56-5-2940(4) if the conviction occurred at least ten years prior to the application for employment and the following conditions are met:
  - (a)** the person has not been convicted in this State or any other state of an alcohol or drug violation during the previous ten-year period;
  - (b)** the person has not been convicted of and has no charges pending in this State or any other state for a violation of driving while his license is canceled, suspended, or revoked during the previous ten-year period; and
  - (c)** the person has completed successfully an alcohol or drug assessment and treatment program provided by the South Carolina Department of Alcohol and Other Drug Abuse Services or an equivalent program designated by that agency.

**A person who has been convicted of a first-offense violation of Section 56-5-2930 must not drive a motor vehicle or provide transportation while in the official course of his duties as an employee of a childcare center, group childcare home, family childcare home, or church or religious childcare center.**

**If the person subsequently is convicted of, receives a sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for a violation of Section 56-5-2930 or for a violation of another law or ordinance of this State or any other state or of a municipality of this State or any other state that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics, the person's employment must be terminated;**

**(5) the offenses enumerated in Section 16-1-10(D); or**

**(6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.**

**This section does not prohibit employment or provision of caregiver services when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in this subsection has been pardoned. However, notwithstanding the entry of a pardon, an operator or the department may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited for employment or to provide caregiver services.**

**(B) A person who has been convicted of a crime enumerated in subsection (A) who applies for employment with, is employed by, or is a caregiver at a childcare center, group childcare home, family childcare home, or church or religious childcare center is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.**

**(C) Application forms for employment at childcare centers, group childcare homes, family childcare homes, or church or religious childcare centers must include, at the top of the form in large bold type, a statement indicating that a person who has been convicted of a crime enumerated in subsection (A) who applies for employment with, is employed by, or seeks to provide caregiver services or is a caregiver at a facility is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.**

**(D)(1) To be employed by or to provide caregiver services at a childcare facility licensed, registered, or approved under this subarticle, a person first shall undergo a state fingerprint-based background check to be conducted by the State Law Enforcement Division (SLED) to determine any state criminal history, a fingerprint-based background check to be conducted by the Federal Bureau of Investigation to determine any other criminal history, and a Central Registry check to be conducted by the department to determine any abuse or neglect perpetrated by the person upon a child.**

**(2) However, a person may be provisionally employed or may provisionally provide caregiver services after the favorable completion of the State Law Enforcement Division name and date of birth-based background check until such time as the SLED and Federal Bureau of Investigation fingerprint-based background checks, and the Central Registry check are completed if the person executes a sworn statement on a form provided by the department that he or she has not been convicted of any crime enumerated in this section and that he or she is not on the Central Registry for having perpetrated abuse or neglect upon a**

child. A person provisionally employed must be directly supervised by a nonprovisionally employed person at all times when providing direct care to children.

(3) Provisional status will be repealed if the requests for the Central Registry check and SLED and FBI fingerprint-based background checks are not sent by facsimile, mail, or another manner approved by the department by the end of the next business day after the person was employed.

(4) If the director of a childcare facility violates the terms of provisional employment, for a first offense, the facility may not employ a person provisionally for twelve months. For a second or subsequent offense, the facility may not employ a person provisionally for twenty-four months. The penalty shall apply to any facility that may employ the director of the facility during the period of suspension. A childcare facility owner with five or more facilities that sustains violations in twenty-five percent or more of facilities owned in the State during a period of two years may not employ a person provisionally in any facility for twenty-four months. The department shall have authority to determine that a violation has occurred and shall notify the owner and the director in writing of the violation and the penalty. The owner or director under penalty may appeal this determination through the process provided in this subarticle for appeal of the revocation or denial of a childcare license. Authority to employ persons in provisional status must remain suspended while the appeal is pending. Upon disposition of the appeal in favor of the appellant, authority to use provisional status must be restored.

(5) The results of the fingerprint-based background checks are valid and reviews are not required to be repeated as long as the person remains employed by or continues providing caregiver services in a childcare center, group childcare home, family childcare home, or church or religious childcare center; however, if a person is not employed or does not provide caregiver services for one year or longer, the fingerprint reviews must be repeated.

(6) For provisional employment under this section, the department must complete the Central Registry check within two business days of receipt of the request. For other employment under this section, the department must complete the Central Registry check within five business days of receipt of the request. If the department notifies the provider that research into other records is required, these deadlines may be extended for up to ten additional business days.

(E) Unless otherwise required by law, this section does not apply to volunteers in a childcare center, group childcare home, family childcare home, or church or religious childcare center. For purposes of this section, “volunteer” means a person who:

(1) provides services without compensation relating to the operation of a childcare center, group childcare home, family childcare home, or church or religious childcare center; and

(2) is in the presence of an operator, employee, or caregiver when providing direct care to children.

“Volunteer” includes, but is not limited to, parents, grandparents, students, and student teachers.

(F) Unless otherwise required by law, this section applies to:

(1) an employee who provides care to the child or children without the direct personal supervision of a person licensed, registered, or approved under this chapter; and

**(2) any other employee at a facility licensed, registered, or approved under this chapter who has direct access to a child outside the immediate presence of a person who has undergone the fingerprint review required under this chapter.**

**SC Statute 63-13-45.**

**Notice to parents of childcare center provisional staff employment; statements from parents indicating receipt of notice.**

**(A) An owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63-13-20, must notify and obtain signed statements from the custodial parent or parents or guardian or guardians of each child currently enrolled in the childcare center, group childcare home, or family childcare home indicating that the parent or parents or guardian or guardians have received notice that the childcare center, group childcare home, or family childcare home may provisionally employ a person in order to comply with Section 63-7-1980 and Section 63-13-40(D) when an unexpected staff vacancy occurs. Provisional employment may only occur pursuant to the provisions of Section 63-13-40(D).**

**(B) Within sixty days of this act's effective date, an owner or operator of a childcare center, group childcare home, or family childcare home, as defined by Section 63-13-20 of the 1976 Code, must notify and obtain signed statements pursuant to the provisions of this section from the custodial parent or parents or guardian or guardians of each child enrolled on this act's effective date in the childcare center, group childcare home, or family childcare home.**

**(SEE RESOURCE MANUAL SECTION 4 FOR ENTIRE TEXT OF SECTIONS 56-5-2930 AND 56-5-2940.)**

114-503 K.(2) Background criminal history checks

- (a) To be employed by or to provide teacher/caregiver services at a child care facility, a person shall first undergo a State fingerprint review from the State Law Enforcement Division (SLED).
- (b) A person may be provisionally employed or may provisionally provide teacher/caregiver services after the favorable completion of the state fingerprint review. The Federal Bureau of Investigation (FBI) fingerprints shall be submitted for review within 14 business days upon receiving the SLED results. Upon the completed FBI review, the results will be forwarded to the appropriate Department for distribution.

**POLICY: The child care center shall follow current FBI/SLED policies for obtaining state fingerprint reviews. (1/31/06)**

**POLICY: A staffing with Central Office and General Counsel shall be held. Implement Corrective Action Plan if necessary. (6/1/07)**

- (c) No child care facility may employ a person, engage the services of or knowingly allow a person in the child care facility during normal hours of operation who is required to register under the sex offender registry act pursuant to SC Code of Laws Section 23-3-430 or who has been convicted of:
  - (i) A crime listed in Code of Laws of South Carolina; Chapter 3 of Title 16, Offenses Against the Person;
  - (ii) A crime listed in Code of Laws of South Carolina; Chapter 15 of Title 16, Offenses Against Morality and Decency;



- (iii) The crime of contributing to the delinquency of a minor, contained in Code of Laws of South Carolina; Section 16-17-490.
- (d) The results of the fingerprint reviews are valid and reviews are not required to be repeated as long as the person remains employed by or continues providing teacher/caregiver services in a child care facility; however, if a person has a break in service of one year or longer, the fingerprint reviews shall be repeated.
- (e) Copies of State and Federal fingerprint results shall be retained in the staff file and available for review by Department staff, upon request.

**POLICY: Convicted felons are prohibited from acting in the capacity of a volunteer even if supervised by qualified staff at all times. (1/29/09)**

**POLICY: It is the responsibility of the facility director, operator, or owner to verify whether or not a new caregiver has had a break in service greater than one year. Assistance will be provided to the facility director, operator, or owner if they contact Child Care Licensing to verify information they have been given by the applicant or another child care facility. (1/29/09)**

**SC Statute 63-13-50.  
Fingerprint exemptions.**

The fingerprint reviews required by this subarticle are not required of a certified education personnel who has undergone a fingerprint review pursuant to Section 59-26-40 or of a person licensed as a foster parent who has undergone a state and federal fingerprint review pursuant to Section 20-7-1640, and the results of these reviews have been submitted to the department and the person has remained employed since the review in certified education or licensed as a foster parent or the reviews have been conducted within the preceding year.

**SC Statute 63-13-60.  
Criminal history review fee.**

For conducting a state criminal history review as required by this subarticle, the State Law Enforcement Division may not impose a fee greater than the fee imposed by the Federal Bureau of Investigation for conducting such a review.

**SC Statute 63-13-430.(D)(F)(G)  
License renewal; private centers and homes.**

- (D) No license may be renewed for any operator who has been convicted of:**
- (1) a crime listed in Chapter 3 of Title 16, Offenses Against the Person;**
  - (2) a crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency;**
  - (3) the crime of contributing to the delinquency of a minor, contained in Section 16-17-490;**
  - (4) the felonies classified in Section 16-1-10(a);**
  - (5) the offenses enumerated in Section 16-1-10(D); or**

- (6) a criminal offense similar in nature to the crimes listed in this subsection committed in other jurisdictions or under federal law.
- (F) A licensee seeking license renewal under this section, its employees, and its caregivers, who have not done so previously, on the first renewal after June 30, 1995, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.
- (G) No facility may employ or engage the services of an employee or caregiver who has been convicted of one of the crimes listed in this section.

**SC Statute 63-13-630. D. & F.  
Approval renewal; public centers and homes.**

- (D) A person applying for approval renewal under this section, a person who will operate the facility, and its employees and caregivers, who have not done so previously, on the first approval renewal after June 30, 1995, shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprint review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.
- (F) No facility may employ or engage the services of an employee or a caregiver who has been convicted of one of the crimes listed in this section.

**Staffing – Center Director(s) and Co-Director(s) Responsibilities**

- 114-503 K.(3) Center Director and/or Center Co-Director(s)
- (a) There shall be a center director and/or center co-director(s) responsible for the following:
- (i) Administration and management of the center;
  - (ii) Safety and protection of the children;
  - (iii) Development and implementation of policies and procedures;
  - (iv) Communication with parents about the policies and procedures of the center;
  - (v) Staff hiring, supervision and ongoing professional development; and

***POLICY: When the Department is informed that a director is no longer employed at a facility, the facility shall immediately be sent a letter giving the operator of the facility thirty days to submit the name and all required documentation for the new director. (5/1/06)***

- (vi) Compliance with all applicable laws and regulations of the child care center.
- 114-503 K.(3) (b) The center director(s) or a designee shall be physically present on-site during the hours of the center's operation. A center co-director is required when the program operates more than 12 hours per day.

**Qualifications – Center Director(s)**

- 114-503 K.(3) (c) The center director and center co-director(s) shall be at least 21 years of age and meet one of the following qualifications:
- (i) A bachelor's degree or advanced degree from a state-approved college or university in early childhood education, child development, child psychology or a related field that includes at least eighteen credit hours in child development and/or early childhood education;
  - (ii) A bachelor's degree from a state-approved college or university in any subject area, six months experience working with children in a licensed, approved or registered child care facility;
  - (iii) An associate's degree from a state-approved college or university in early childhood education, child development, child psychology or a related field, that includes at least eighteen credit hours in child development and/or early childhood education with six months work experience in a licensed, approved or registered child care facility;
  - (iv) A diploma in child development/early childhood education from a state-approved institution or a child development associate credential (CDA), and one year work experience in a licensed, approved or registered child care facility; or
  - (v) A High School Diploma or GED with 3 years experience in a licensed, approved or registered child care facility. One year shall include supervision of child care staff.

***POLICY: Six months experience teaching K-5 in a public/private school may be substituted for six months experience working with children in a licensed, approved, registered child care facility. (6/1/07)***

***POLICY: The grandfather clause contained in 63-13-30(B) of the South Carolina Code of Laws refers to caregivers and makes no mention of child care facility directors. Therefore, this clause does not exempt directors from the educational requirements as stated in DSS Regulation 114-503 K.(3)(b) through 114-503 K.(3)(c)(v). (4/01/08)***

### **Caregivers/Teacher Qualifications**

#### **SC Statute 63-13-30**

#### **Childcare center caregivers; education and experience requirements.**

- A. A caregiver who begins employment in a licensed or approved childcare center in South Carolina after June 30, 1994, must have at least a high school diploma or General Educational Development (GED) and at least six months' experience as a caregiver in a licensed or approved childcare facility. If a caregiver does not meet the experience requirements, the caregiver must be directly supervised for six months by a staff person with at least one year experience as a caregiver in a licensed or approved childcare facility. Within six months of being employed, a caregiver must have six clock hours of training in child growth and development and early childhood education or shall continue to be under the direct supervision of a caregiver who has at least one year of experience as a caregiver in a licensed or approved childcare facility.**

- B. A caregiver who has two years' experience as a caregiver in a licensed or approved facility and is employed as of July 1, 1994 in a licensed or approved childcare center in South Carolina is exempt from the high school diploma and General Educational Development (GED) requirements of subsection (A).**

- 114-503 K. (4) (a) Caregivers/Teachers shall meet the following qualifications:
- (i) Be at least 18 years of age, and able to read and write;
  - (ii) A teacher/caregiver who began employment in a licensed or approved child care center in South Carolina after June 30, 1994, must have at least a high school diploma or General Educational Development Certificate (GED) and at least six months experience as a teacher/caregiver in a licensed or approved child care facility. However, a teacher/caregiver who is prevented from obtaining a high school diploma or GED because of a disability, and who otherwise is qualified to perform the essential functions of the position of teacher/caregiver, must have at least a high school Certificate of Completion and at least six months experience as a teacher/caregiver in a licensed or approved child care facility. If a teacher/caregiver does not meet the experience requirements, the teacher/caregiver must be directly supervised for six months by a staff person with at least one-year experience as a teacher/caregiver in a licensed or approved child care facility. Within six months of being employed, a teacher/caregiver must have six clock hours of training in child growth and development and early childhood education or shall continue to be under the direct supervision of a teacher/caregiver who has at least one year of experience as a teacher/caregiver in a licensed or approved child care facility.

**Policy: The intent of the law is to require caregivers and directors to meet a minimum educational standard in order to be employed in child care. Diplomas and GED's must be obtained from credible (see Webster's definition) sources. Diplomas, GED's, and transcripts from questionable sources should be reviewed with the Central Office of Child Care Licensing on an individual basis before they are accepted as proof of education. (11/3/10)**

**Definition: credible- believable, or offering reasonable grounds for being believed (Webster's Dictionary)**

**POLICY: The grandfather clause as stated in South Carolina Code of Law 63-13-30 refers specifically to caregivers who were exempted from educational requirements to be caregivers. There is no statement in the statute with regard to exempted caregivers becoming facility directors. Therefore, caregivers exempted from educational requirements may not be employed as directors. (8/25/08)**

**POLICY: All teachers/caregivers must have a high school diploma, GED, or appropriate certificate from an educational institution. If the institution is not accredited, staff may request a transcript. (1/31/06)**

**POLICY: Staff members, including cooks, janitors, maintenance persons, secretaries, and bookkeepers who do not provide direct care for children and are not counted in staff:child ratios are not caregivers as defined by regulation and are exempt from educational requirements. (revised 8/25/08)**

**POLICY:** *Proof of high school graduation or GED completion must be in the form of a valid diploma, official transcript, college diploma, or a notarized statement from the appropriate school district or educational facility. Any other documentation must be approved by the Central Office. (revised 11/1/06)*

**POLICY:** *If a caregiver has proof of graduation at a level of education that exceeds a high school diploma, they do not need to provide proof that they graduated from high school or obtained a GED. The levels of education that exceed a high diploma or GED are as follows: an Associates Degree, a Bachelors Degree, a Masters Degree, and a Doctoral Degree. (1/29/09)*

**POLICY:** *Diplomas and transcripts from educational institutions vary widely in content. If a diploma is questionable in any way, a transcript and/or contact information for the educational institution may be required. The educational institution may be contacted if the documents appear to be altered. (4/01/08)*

**POLICY:** *Due to extenuating circumstances, records proving that an individual meets the minimum educational requirements to be employed in child care cannot always be obtained. When this occurs, the Region Supervisor will staff with the Central Office of Child Care Licensing. The staffing team may use discretion to make a decision whether or not to approve the employment. Documentation of the approval should be conspicuously available for further licensing reviews (7/30/09).*

#### **PROCEDURE: VERIFICATION OF EDUCATIONAL QUALIFICATIONS**

1. **Notify Central Office of other documentation.**
2. **Fax documentation to Central Office**
3. **Central Office will staff, make decision, and inform Regional Office. (11/1/06)**

**POLICY:** *The teacher/caregiver must provide information as to the reason for receiving a Certificate of Completion. If they are unable to provide information about their disability, the teacher/caregiver must have at least a high school diploma or GED. (1/31/06)*  
*Verification of a high school certificate and disability may be completed by obtaining a letter from the special education staff of the high school, school district, or the Department of Education. The certificate and letter shall be submitted to the regional supervisor for review and approval. (8/25/08)*

**POLICY:** *“Directly supervised” for unqualified staff means a qualified staff person is physically in the room when children are present. (5/1/06)*

- (iii) A teacher/caregiver who has two years experience as a teacher/caregiver in a licensed or approved facility and was employed as of July 1, 1994, in a licensed or approved child care center in South Carolina is exempt from the high school diploma, General Education Development (GED), and Certificate of Completion requirements of (ii) above; and
- (iv) A teacher/caregiver with an undergraduate degree from a state approved college or university in early childhood, child development, or a related field may begin working with the children immediately without additional supervision.

114-503 K. (4) (b) Exception: A teacher/caregiver may be 16 or 17 years of age if he/she is continuously supervised by a qualified teacher/caregiver who is in the room at all times.

- (c) Exception: Staff persons who were employed prior to the effective date of these revised regulations are not required to meet the staff qualifications specified in this chapter if the staff qualifications required in the prior regulations are met. If a teacher/caregiver has had more than a twelve-month break in service, the new guidelines shall be met for re-employment as a teacher/caregiver.

## **Professional Development**

### **SC Statute 63-13-120 Training on domestic violence.**

**The Department of Social Services in conjunction with existing training regulations shall make available to childcare owners and operators staff training on domestic violence including, but not limited to:**

- (1) the nature, extent, and causes of domestic and family violence.**
- (2) issues of domestic and family violence concerning children;**
- (3) prevention of the use of violence by children;**
- (4) sensitivity to gender bias and cultural, racial, and sexual issues;**
- (5) the lethality of domestic and family violence;**
- (6) legal issues relating to domestic violence and child custody.**

114-503 K.(5) Professional development

- (a) The director(s) shall provide orientation for all new staff, volunteer(s), and emergency person(s) prior to their employment, volunteering, and student/teacher training. This orientation shall include the following:
- (i) Specific job duties and responsibilities;
  - (ii) The requirements of this chapter related to their job; and
  - (iii) The policies and procedures of the center that affect the health and safety of children.

**POLICY: A file shall be kept on volunteers which documents orientation. (5/1/06)**

114-503 K.(5) (b) The director shall participate in at least twenty clock hours of training annually. At least five clock hours shall be related to program administration and at least five clock hours shall be in child growth and development, early childhood education and/or health and safety excluding first aid and CPR training. The remaining hours shall come from the following areas: Curriculum Activities, Nutrition, Guidance, or Professional Development and must include blood-borne pathogens training as required by OSHA. **(SEE RESOURCE MANUAL SECTION 4 REGARDING OSHA REQUIREMENTS ON BLOOD-BORNE PATHOGENS TRAINING.)**

114-503 K.(5) (c) All staff, with the exception of emergency person(s) and volunteer(s), providing direct care to the children shall participate in at least fifteen clock hours annually. At least five clock hours shall be in child growth and development and at least five clock hours shall be in curriculum activities for children excluding first aid and CPR training. The remaining hours shall come from the following areas: Guidance, Health, Safety, Nutrition, or Professional Development and must include blood-borne pathogens training as required by OSHA.



***POLICY: An exposure control plan must be established as part of Blood Borne Pathogens Training. Credit for the training will not be given if the plan is not complete and in writing at the facility. (8/25/08 reviewed with no revision 7/30/09)***

114-503 K.(5) (d) When children with special needs are enrolled, the director and staff members shall receive orientation and/or training in understanding the child's special needs and ways of working in group settings when children with special needs are enrolled.

***POLICY: If the child care center cares for children with special needs, the facility shall maintain on file documentation of orientation and training of staff in those areas of special needs. (1/31/06)***

***POLICY: If an emergency medication is needed, such as an EpiPen or inhaler, it should be stored in a First Aid Kit that is readily accessible in the event of an emergency. Staff should be trained in the recognition of symptoms in children in the use of the emergency medication. Parents should complete an Emergency Consent Form and provide it to the facility. (11/1/06)***

114-503 K.(5) (e) All staff shall receive information regarding the developmental abilities of the age group(s) with whom the teacher/caregiver will be working.

114-503 K.(5) (f) Records of training received shall be kept on the premises and include the name of the person trained, the person or persons conducting the training, date, number of hours, location, and the competency area of the training.

#### **SC Statute 63-13-110 First aid and CPR Certificates.**

**During the hours of operation, all childcare facilities, except registered family childcare homes, must have on the premises at least one caregiver with a current certificate for the provision of basic first aid and child-infant cardiopulmonary resuscitation.**

114-503 K.(5) (g) At least one person who is certified in pediatric first aid, including rescue breathing, CPR, and management of a blocked airway shall be present in the center at all times when children are in care, and during group outings or field trips. Training shall be provided by an individual who is certified as a trainer by a recognized health care organization.

***POLICY: Certified training for basic first aid and child-infant cardiopulmonary resuscitation must include a hands-on, skills component in order to meet the requirements as described in statutes and regulations for Child Care Licensing. If the training includes on-line video instruction, there must be a certified instructor present in the room to demonstrate and observe proper techniques as performed by the students. No CPR/FA training may be approved that was obtained solely through on-line Internet instruction. Proof of training must be in the form of an original certificate or card signed by the trainer. (11/3/10)***