

TITLE 5: NEED REGULATIONS

Effective date of New Regulations: June 27, 2008
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Old Regulations

Subchapter 3: General Child Care Programs

Article 2. Basic Data File

[No 18085.5 in old regulations]

New Regulations

Subchapter 3: General Child Care Programs

Article 2. Basic Data File

18085.5. Documentation of Need Based on Employment, Seeking Employment, Training, Seeking Housing, and Incapacity; In General.

(a) Families who are eligible for subsidized child care and development services based on income, public assistance, or homelessness must document that each parent in the family, pursuant to section 18078(f) meets a need criterion, as specified in Education code section 8263(a)(2)(B). The need criteria are: vocational training leading directly to a recognized trade, paraprofession, or profession; employment or seeking employment; seeking permanent housing for family stability; and incapacitation.

(b) Subsidized child care and development services shall only be available to the extent to which:

- (1) The parent meets a need criterion as specified in subdivision (a) that precludes the provision of care and supervision of the family's child for some of the day;
- (2) There is no parent in the family capable of providing care for the family's child during the time care is requested; and
- (3) Supervision of the family's child is not otherwise being provided by school or another person or entity.

18086. Documentation of Employment; Employment in Parent's Home.

(a) If the basis of need as specified in Education Code Section 8263 (a)(2) is employment of the parent(s), the basic data file shall contain documentation of the parent(s) employment. The documentation of employment shall consist of one of the following:

- (1) Statement of Wages which is attached to the check; or
- (2) A written statement from the employer; or
- (3) Documented telephone verification between the contractor's staff and the employer.

(b) If the family's employment is in the home:

- (1) The nature of the work must preclude the supervision of the family's child(ren).
- (2) Family child care providers are not eligible for subsidized services because their work does not preclude the supervision of their own children.

18086. Documentation of Employment

(a) If the basis of need as stated on the application for services is employment of the parent, the documentation of the parent's employment shall include the days and hours of employment.

(b) If the parent has an employer, the documentation of need based on employment shall consist of one of the following:

(1) The pay stubs provided to determine income eligibility that indicate the days and hours of employment;

(2) When the provided pay stubs do not indicate the days and hours of employment, the contractor shall verify the days and hours of employment by doing one of the following:

(A) Secure an independent written statement from the employer;

(B) Telephone the employer and maintain a record;

(C) If the provided pay stubs indicate the total hours of employment per pay period and if the contractor is satisfied that the pay stubs have been issued by the employer, specify on the application for services the days and hours of employment to correlate with the total hours of employment and the parent's need;

(D) If the variability of the parent's employment is unpredictable and precludes the contractor from verifying specific days and hours of employment or work week cycles, specify on the application for services that the parent is authorized for a variable schedule for the actual hours worked, identifying the maximum number of hours of need based on the week with the greatest number of hours within the preceding four weeks and the verification pursuant to subdivisions (A), (B) or (C) above. Until such time as the employment pattern becomes predictable, need for services shall be updated at least every four months and shall be based on the requirements of subdivision (b) and the child care services utilized;

(E) If the employer refuses or is non-responsive in providing the requested information, record the contractor's attempts to contact the employer, and specify and attest on the application for services to the reasonableness of the days and hours of employment

based on the description of the employment and community practice; or

(F) If the parent asserts in a declaration signed under penalty of perjury that a request for employer documentation would adversely affect the parent's employment, on the application for services:

(i) Attest to the reasonableness of the parent's assertion; and

(ii) Specify and attest to the reasonableness of the days and hours of employment based on the description of the employment and community practice.

(3) When the employed parent does not have pay stubs or other record of wages from the employer and has provided a self-certification of income, as defined in section 18078(o), the contractor shall assess the reasonableness of the days and hours of employment, based on the description of the employment and the documentation provided pursuant to section 18084(a)(3), and authorize only the time determined to be reasonable.

(c) If the parent is self-employed, the documentation of need based on employment shall consist of the following:

(1) Parent provided information that includes:

(A) A declaration of need under penalty of perjury that includes a description of the employment and an estimate of the days and hours worked per week;

(B) To demonstrate the days and hours worked, a copy of one or more of the following: appointment logs, client receipts, job logs, mileage logs, a list of clients with contact information, or similar records; and

(C) As applicable, a copy of a business license, a workspace lease, or a workspace rental agreement.

(2) A statement by the contractor assessing the reasonableness of the total number of days and hours requested per week based on the description of the employment and the documentation provided pursuant to this section and section 18084. If the parent has unpredictable hours of employment, the contractor shall authorize the parent for a variable schedule not to exceed the number of hours determined to be needed per week. Need for services for unpredictable hours

shall be updated at least every four months and shall be based on the requirements of subdivision (c). If the contractor has been unable to verify need based on the documentation provided, the contractor shall take additional action to verify self-employment that includes any one or more of the following:

(A) If the self-employment occurs in a rented space, contacting the parent's lessor or other person holding the right of possession to verify the parent's renting of the space;

(B) If the self-employment occurs in variable locations, independently verifying this information by contacting one or more clients whose names and contact information have been voluntarily provided by the parent; or

(C) Making other reasonable contacts or requests to determine the amount of time for self-employment.

(3) If the contractor is unable to make a reasonable assessment of the hours needed for self-employment after attempting to verify such hours and documenting the attempts, the contractor may divide the parent's self-employment income, as defined in section 18078(q)(4), by the applicable minimum wage. The resulting quotient shall be the maximum hours needed for employment per month.

(d) For the instances identified in subdivision (b)(2)(A) through (E) and (c), the parent shall provide a release to enable the contractor to obtain the information it deems necessary to support the parent's asserted days and hours worked per week.

(e) If additional services are requested for travel time or sleep time to support employment, the contractor shall determine, as applicable, the time authorized for:

(1) Travel to and from the location at which services are provided and the place of employment, not to exceed half of the daily hours authorized for employment to a maximum of four hours per day; or

(2) Sleep, if the parent is employed anytime between 10:00 p.m. and 6:00 a.m., not to exceed the number of hours authorized for employment and travel between those hours.

[No 18086.1 in old regulations]

18086.1. Documentation of Employment in the Home or a Licensed Family Day Care Home; Service Limitations.

(a) The requirements of this section are in addition to those stated in section 18086.

(b) If the parent's employment is in the family's home or on property that includes the family's home, the parent must provide justification for requesting subsidized child care and development services based on the type of work being done and its requirements, the age of the family's child for whom services are sought, and, if the child is more than five years old, the specific child care needs. The contractor shall determine and document whether the parent's employment and the identified child care needs preclude the supervision of the family's child.

(c) If the parent is a licensed family day care home provider pursuant to Health and Safety Code section 1596.78 or an individual license-exempt provider pursuant to Health and Safety Code section 1596.792, subdivisions (d) or (f), the parent is not eligible for subsidized services during the parent's business hours because the parent's employment does not preclude the supervision of the family's child.

(d) If the parent is employed as an assistant in a licensed large family day care home, pursuant to Health and Safety Code section 1596.78(b), and is requesting services for the family's child in the same family day care home, the parent shall provide documentation that substantiates all of the following:

(1) A copy of the family day care home license indicating it is licensed as a large family day care home;

(2) A signed statement from the licensee stating that the parent is the assistant, pursuant to the staffing ratio requirement of California Code of Regulations, title 22, section 102416.5(c);

(3) Proof that the parent's fingerprints are associated with that licensed family day care home as its assistant,

which the contractor may verify with the local community care licensing office; and

(4) Payroll deductions withheld for the assistant by the licensee, which may be a pay stub.

[No 18086.5 in old regulations]

18086.5 Documentation of Seeking Employment; Service Limitations.

(a) If the basis of need as stated on the application for services is seeking employment, the parent's period of eligibility for child care and development services is limited to 60 working days during the contract period, except as specified in subdivisions (d) and (e). Services shall occur on no more than five days per week and for less than 30 hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.

(b) Documentation of seeking employment shall include a written parental declaration signed under penalty of perjury stating that the parent is seeking employment. The declaration shall include the parent's plan to secure, change, or increase employment and shall identify a general description of when services will be necessary.

(c) The contractor shall determine the number of working days available for seeking employment and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, a description of the activities he or she has undertaken during the previous week to seek employment and, as appropriate, may require additional documentation.

(d) If the Governor declares a state of emergency and if the factual basis for the Governor's declaration indicate that opportunities for employment have temporarily diminished to such a degree that parents cannot be reasonably expected to find employment within 60 working days of diligent searching, the State

Superintendent of Public Instruction SSPI may investigate to determine whether the 60-working-days limitation described in paragraph (a) should be suspended. If the SSPI determines that it is in the public interest to do so, he or she may, by order, suspend the 60-working-days limitation on eligibility during the period of the emergency or for a lesser time. The scope of the suspension, including the geographic areas and the persons affected, and its duration, shall be no more than necessary to respond to the emergency as determined in the SSPI's investigation, and shall be specifically described in the SSPI's order. If a parent's services for seeking employment were exhausted after an emergency was declared and before the SSPI suspends the eligibility limitation, the contractor may re-authorize services for seeking employment in accordance with the conditions specific in the SSPI's order.

(e) If the parent has concurrently received services based on employment or vocational training for at least 20 working days while receiving services for seeking employment, eligibility for seeking employment may be extended for an additional 20 working days. For such a parent, services for this purpose shall not exceed 80 working days during the contract period.

(f) If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.

(g) As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.

18087. Documentation of Training

If the basis of need as specified in Education Code Section 8263(a)(2) is training, the basic data file shall contain documentation of the parent's(s') training. The documentation of training shall include:

- (a) Name of the school or organization where training is received;
- (b) Dates that current training activities will begin and end;
- (c) A statement of the parent's (s') vocational goal(s);
- (d) The anticipated completion date(s) of all required training activities to meet the vocational goal;
- (e) Class schedule which includes:
 - (1) The courses that the parent is currently enrolled in;
 - (2) Day(s) of the week and time(s) of the day of the courses;
 - (3) Signature of parent along with the date the application was signed;
 - (4) Signature or stamp of the training institution's registrar and
- (f) Report cards, transcripts or other records to document that the parent is making progress toward the attainment of the vocational goal in accordance with (d) of this Section.

18087. Documentation of Training toward Vocational Goals; Service Limitations.

(a) If the basis of need as stated on the application for services is vocational training leading directly to a recognized trade, paraprofession, or profession, child care and development services shall be limited, except as specified in subdivision (I), to whichever expires first:

- (1) Six years from the initiation of services pursuant to this section; or
- (2) Twenty four semester units, or its equivalent, after the attainment of a Bachelor's Degree.

(b) The parent shall provide documentation of the days and hours of vocational training to include:

- (1) A statement of the parent's vocational goal;
- (2) The name of the training institution that is providing the vocational training;
- (3) The dates that current quarter, semester, or training period, as applicable, will begin and end;
- (4) A current class schedule that is either an electronic print-out from the training institution of the parent's current class schedule or, if unavailable, a document that includes all of the following:
 - (A) The classes in which the parent is currently enrolled;
 - (B) The days of the week and times of day of the classes; and
 - (C) The signature or stamp of the training institution's registrar.
- (5) The anticipated completion date of all required training activities to meet the vocational goal; and
- (6) Upon completion of a quarter, semester, or training period, as applicable, a report card, a transcript, or if the training institution does not use formal letter grades, other records to document that the parent is making progress toward the attainment of the vocational goal in accordance with subdivision (f).

(c) A parent shall report any change in his or her class schedule related to the days and times of any class, including a withdrawal from a class, within five calendar days of requesting the change from the institution

(d) Services may be provided for classes related to the General Education Development (GED) test or English language acquisition if such courses support the attainment of the parent's vocational goal.

(e) On-line or televised instructional classes that are unit bearing classes from an accredited training institution shall be counted as class time at one hour a week for each unit. The parent shall provide a copy of the syllabus or other class documentation and, as applicable, the Web address of the on-line program. The accrediting body of the training institution shall be among those recognized by the United States Department of Education.

(f) Continuation of services based on training is contingent upon making adequate progress. To make progress each quarter, semester, or training period, as applicable, the parent shall, in the college classes, technical school, or apprenticeship for which subsidized care is provided:

- (1) In a graded program, earn 2.0 grade point average; or
- (2) In a non-graded program, pass the program's requirements in at least 50 percent of the classes or meet the training institution's standard for making adequate progress.

(g) The first time the parent does not meet the condition in subdivision (f), the parent may continue to receive services for one additional quarter, semester, or training period, as applicable, to improve the parent's progress. At the conclusion of that session, the parent shall, in the classes for which subsidized care was provided, have made adequate progress pursuant to subdivision (f). If the parent has not made adequate progress pursuant to subdivision (f), services for this purpose shall be:

- (1) Terminated; and

(2) Available to the parent, to the extent provided by subdivision (a), after six months from the date of termination.

(h) No later than ten calendar days after the training institution's release of progress reports for the quarter, semester, or vocational training period, as applicable, the parent shall provide the contractor with a copy of the parent's official progress report. As it deems appropriate, the contractor may require the parent to:

(1) Have an official copy of a progress report sent directly from the training institution to the contractor; or

(2) Provide a release, as may be required by the training institution, to enable the contractor to verify the parent's progress with the institution.

(i) A parent may change his or her vocational goal, but services shall be limited to the time or units remaining from the initiation of the provision of services for vocational training as specified in subdivision (a).

(j) The contractor shall determine the days and hours needed per week, and whether the parent is making progress, based on documentation. The contractor may request that the parent provide a publication from the training institution describing the classes required to complete the parent's vocational goal.

(k) If additional services are requested for study time or travel time to support the vocational training, the contractor shall determine, as appropriate, the amount of services needed for:

(1) Travel to and from the location at which services are provided and the training location, not to exceed half of the weekly hours authorized for training to a maximum of four hours per day; or

(2) Study time, including study time for on-line and televised instructional classes, according to the following:

(A) Two hours per week per academic unit in which the parent is enrolled; and

(B) On a case-by-case basis, and as may be confirmed with the class instructor, additional time not

to exceed one hour per week per academic unit in which the parent is enrolled; and

(C) On a case-by-case basis, no more than the number of class hours per week for non-academic or non-unit bearing training.

(1) The service limitations specified in subdivision (a) shall not apply to a parent who demonstrates he or she is:

(1) As of June 27, 2008, receiving services for vocational training and has attained a Bachelor's Degree;

(2) Receiving services from a program operating pursuant to Education Code section 66060;

(3) Attending vocational training when the parent has been deemed eligible for rehabilitation services by the California Department of Rehabilitation; or

(4) Attending retraining services available through the Employment Development Department of the State or its contractors due to a business closure or mass layoff.

18088. Documentation of Parental Incapacity.

If the basis of need as specified in Education Code Section 8263 (a) (2) is parental incapacity, the basic data file shall contain documentation provided by a legally qualified professional of the parent's (s) incapacitation. The documentation of incapacitation shall include:

- (a) A description of the nature of the incapacitation;
- (b) The probable duration of the incapacitation;
- (c) A statement that the parent's(s) incapacitation prevents the parent(s) from caring for the child for some part of the day;
- (d) The number of hours that child care is needed each day because of the incapacitation; and
- (e) The name, address, telephone number and signature of the legally qualified professional who is rendering the opinion of incapacitation.

18088. Documentation of Parental Incapacity; Service Limitations.

(a) If the basis of need as stated on the application for services is parental incapacity, child care and development services shall not exceed 50 hours per week.

(b) Documentation shall include a release signed by the incapacitated parent authorizing a legally qualified health professional to disclose information necessary to establish that the parent meets the definition of incapacity, pursuant to section 18078, and needs services.

(c) The documentation of incapacitation provided by the legally qualified health professional shall include:

(1) A statement that the parent is incapacitated, that the parent is incapable of providing care and supervision for the child for part of the day, and if the parent is physically incapacitated, that identifies the extent to which the parent is incapable of providing care and supervision;

(2) The days and hours per week that services are recommended to accommodate in the incapacitation, taking into account that age of the child and the care needs. This may include time for the parent's regularly scheduled medical or mental health appointments;

(3) The probable duration of the incapacitation; and

(4) The name, business address, telephone number, professional license number, and signature of the legally qualified health professional who is rendering the opinion of incapacitation and, if applicable, the name of the health organization with which the professional is associated.

(d) The contractor may contact the legally qualified health professional for verification, clarification, or completion of the provided statement.

(e) The contractor shall determine the days and hours of service based on the recommendation of the health

18091. Documentation of Seeking Permanent Housing

If the basis of need as specified in Education Code Section 8263(a)(2) is seeking permanent housing for family stability, the basic data file shall include documentation of homelessness as specified in Section 18090 of this Division and a written parental declaration that the family is seeking permanent housing and needs child care and development services while seeking permanent housing.

professional and consistent with the provisions of this article.

18091. Documentation of Seeking Permanent Housing; Service Limitations.

(a) If the basis of need as stated on the application for services is seeking permanent housing for family stability, the parent’s period of eligibility for child care and development services is limited to 60-working-days during the contract period, except as specified in subdivision (d). Services shall occur on no more than five days per week and for less than 30 hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.

(b) Documentation of seeking permanent housing shall include a written parental declaration signed under penalty of perjury that the family is seeking permanent housing. The declaration shall include the parent’s search plan to secure a fixed, regular, and adequate residence and shall identify a general description of when services will be necessary. If the family is residing in a shelter, services may also be provided while the parent attends appointments or activities necessary to comply with the shelter participation requirements.

(c) The contractor shall determine the number of weeks available for seeking permanent housing and the child care schedule, which may be a variable schedule, based on documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, either a declaration signed under penalty of perjury describing the activities the parent has undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program regarding the parent’s search progress to date.

(d) If the parent does not expect to secure housing prior to the end of the eligibility period:

(1) The parent may request an extension in a declaration of need signed under penalty of perjury that includes an update of the parent's search plan and either a description of the activities undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program indicating the parent's continued need for services; and

(2) The contractor may authorize an extension of search eligibility for up to 20 additional working days.

(e) If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.

(f) As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.

Article 3. Enrollment

18102. Notice to Families of Their Responsibility to Notify Contractor of Changes to Family Circumstances.

At the time the contractor certifies or recertifies eligibility of a family/child for child care and development services, the contractor shall inform the family of the family's responsibility to notify the contractor of any changes of family income, family size to the need for child care and development services as specified in Education Code Section 8263(a)(2).

Article 3. Enrollment

18102. Notice to Families of Their Responsibility to Notify Contractor of Changes to Family Circumstances.

At the time the contractor certifies eligibility of a family/child for child care and development services, the contractor shall inform the family of the family's responsibility to notify the contractor within five calendar days of any changes in family income, family size, or the need for services as specified in Education Code section 8263(a)(2).

18104 Limited Term Service Leave Requirements.

(a) If the family will temporarily not have a need for subsidized child care and development services as specified in Education Code Section 8263(a)(2), the contractor may grant the family a limited term service leave.

(b) If the contractor grants a limited service leave:

- (1) The family shall not be disenrolled from the program;
- (2) The service agreement with the parent shall indicate that no services will be provided during the limited term service leave; and
- (3) The contractor shall not report the child as enrolled nor claim reimbursement from the State Department of Education while the child is on a limited term of service leave.

(c) A limited term service leave shall not exceed twelve (12) consecutive weeks in duration except when the parent is on a maternity or a medically related leave absence from their employment or training.

(d) Maternity or medical limited term service leaves shall not exceed sixteen (16) consecutive weeks in duration.

(e) If the contractor grants limited term service leaves, the contractor shall establish and implement a policy regarding the criteria for approval of requests for limited term service leaves.

18104 Limited Term Service Leave Requirements.

(a) If the family will temporarily not have a need for subsidized child care and development services as specified in Education Code section 8263(a)(2), the contractor may grant the family a limited term service leave. Reasons for a limited term service leave shall include medical leave and family leave, and may include, but are not limited to break in employment, school break, the child's visit with the non-custodial parent that is not ordered by the court, or family vacation in excess of best interest days as specified in section 18066(f). Family leave means a leave:

- (1) For the birth and care of the newborn child of the parent,
- (2) For placement with the parent of a child for adoption or foster care, and
- (3) To care for the parent's child, spouse, or parent who has a health condition.

(b) If the contractor offers limited term service leaves, the contractor:

- (1) Shall provide equal access to limited term service leaves, and
- (2) May set a limit on the number of leaves to be granted in a contract year based on an assessment of contract resources pursuant to section 18054.

(c) If the contractor grants a limited term service leave:

- (1) The family shall not be disenrolled from the program;
- (2) The service agreement with the parent shall indicate that no services will be provided during the limited term service leave; and
- (3) The contractor shall not report the child as enrolled nor claim reimbursement from the California Department of Education while the child is on a limited term service leave.

(d) A limited term service leave shall not exceed 12 consecutive weeks in duration, except as specified in subdivisions (e) and (f).

(e) A limited service leave from employment or training shall not exceed 16 consecutive weeks in duration if the leave is for:

- (1) A medical or family leave; or
- (2) A period when the vocational training program is not in spring, fall, or winter sessions.

(f) A limited term service leave may be granted for any portion of the contract period in which a child is attending an After School Education and Safety Program, pursuant to Education Code sections 8482 et seq., or federal 21st Century Community Learning Centers program, as referenced in Education Code sections 8484.7 et seq.