



Georgia Department of Early Care and Learning

Nathan Deal
GOVERNOR

Amy M. Jacobs
COMMISSIONER

**Notice of Public Hearing for Proposed Rulemaking
Bright from the Start: Georgia Department of Early Care and Learning**

***Rules and Regulations for
Family Child Care Learning Homes,
Rule Chapter 290-2-3***

Proposed Amendment of Rule 290-2-3-.03
Proposed Amendment of Rule 290-2-3-.07
Proposed Amendment of Rule 290-2-3-.15
Proposed Repeal of Rule 290-2-3-.18

***Rules and Regulations for
Child Care Learning Centers,
Rule Chapter 591-1-1***

Proposed Amendment of Rule 591-1-1-.02
Proposed Amendment of Rule 591-1-1-.31
Proposed Amendment of Rule 591-1-1-.38
Proposed Repeal of Rule 591-1-1-.41
Proposed Repeal of Rule 591-1-1-.42
Proposed Repeal of Rule 591-1-1-.43
Proposed Repeal of Rule 591-1-1-.44

Notice Date: April 8, 2016

Dear Sir or Madam:

Bright from the Start: Georgia Department of Early Care and Learning (DECAL) proposes to amend Rule Chapter 290-2-3 of the *Rules and Regulations for Family Child Care Learning Homes* and Rule Chapter 591-1-1 of the *Rules and Regulations for Child Care Learning Centers*.

DECAL proposes these changes to the aforementioned rules and regulations to incorporate a new enforcement and compliance system.

The proposed amendments and repeals have been posted to Bright from the Start's website at <http://dec.al.ga.gov/ChildCareServices/ProposedRevisions.aspx>.

The proposed changes are being considered for adoption on a permanent basis, and Bright from the Start invites interested parties to comment on them. All comments, written and verbal, will be given full consideration.

Interested parties may submit written comments by mail to 2 Martin Luther King, Jr. Drive SE, Suite 754, East Tower, Atlanta, GA 30334, by fax to (404) 656-0351 or by e-mail to CCSRuleRevisions@dec.al.ga.gov. To be considered, Bright from the Start must receive written comments on or before 5 p.m., May 11, 2016.

Interested parties who prefer to make verbal comments on the proposed rule changes may do so at a public hearing before the Board of Early Care and Learning. The public hearing will be held at 1 p.m. at 2 Martin Luther King Jr. Drive SE, East Tower 8th Floor, Oak Room, Atlanta, Georgia 30334 on Thursday, May 12, 2016. Speakers should sign in to speak before 1 p.m. If no guest speakers have arrived by 1 p.m., the Board will resume its regular meeting. If no guest speakers arrive by the end of the Board's regular business meeting, the Board will adjourn. Comments made in writing will be given the same consideration as those that are made verbally.

All interested parties are invited to attend the public hearing even if they choose not to make verbal comments regarding the rule amendment proposals.

I. Proposed Amendments to Chapter 290-2-3, *Rules and Regulations for Family Child Care Learning Homes.*

A. Bright from the Start proposes to amend Rule 290-2-3-.03 entitled "*Definitions Authority*" in its *Rules and Regulations for Family Child Care Learning Homes*. This amendment shall include the following:

290-2-3-.03 Definitions

In these rules, unless the context otherwise requires, the capitalized words and phrases set forth herein shall mean the following:

- (a) "Adult" means any competent individual eighteen (18) years of age or older.
- (b) "Adverse Action" means any Intermediate or Closure Action issued as a result of one or more rule violations.

~~(b)~~(c) "Child" or "Children" means any person(s) under 18 years of age for whom child care service(s) is (are) provided in a Home. For purposes of these rules, the terms shall not include Children that are related to the License Holder or applicant as defined in these rules or Children whose Parent(s) reside in the same residence as the License Holder or applicant.

(ed) "Crime" means

1. Any felony;
2. A violation of O.C.G.A. § 16-5-23, relating to simple battery, where the victim is a minor;
3. A violation of O.C.G.A. § 16-5-23.1, relating to battery, where the victim is a minor;
4. A violation of O.C.G.A. § 16-21-1, relating to contributing to the delinquency of a minor;

5. A violation of O.C.G.A. § 16-6-1 *et seq.*, relating to sexual offenses;
6. A violation of O.C.G.A. § 16-4-1, relating to criminal attempt when the crime attempted is any of the crimes specified by this paragraph; or
7. Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.

(~~d~~) "Criminal Record" means:

1. Conviction of a crime; or
2. Arrest, charge, and sentencing for a crime where:
 - (i) A plea of *nolo contendere* was entered to the charge; or
 - (ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this division shall not apply to a violation of O.C.G.A. 16-13-1 *et seq.*, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of O.C.G.A. § 16-13-1 *et seq.* if such violation or offense constituted only simple possession; or
 - (iii) Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of O.C.G.A. § 16- 13-1 *et seq.* relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or
3. Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. § 17-3-1 *et seq.*

(e) "Closure Action" means the most restrictive category of Enforcement Actions including emergency closure, long-term suspension and revocation.

(~~f~~) "Department" means Bright from the Start: Georgia Department of Early Care and Learning.

(~~f~~) (~~g~~) "Employee" means any person, other than the Provider or a Provisional Employee, who is 17 years of age or older; and

1. Who is employed by a Home to perform any duties which involve personal contact between that person and any Child being cared for at the Home; or
2. Who resides at the Home; or
3. Who performs duties for the Home, with or without compensation, which involve personal contact between that person and any Child being cared for by the Home, including but not limited to volunteers that perform consistent services for the Family Child Care Learning Home; or
4. Who is employed by a Home and who also has a Child in care at the Home; or
5. Who is an independent contractor hired by the Home to offer consistent supplemental educational or physical activities for Children in care; or
6. Who is a Student-in-Training.

(~~h~~) "Enforcement Action" means any action issued as a result of one or more rule violations ranging from technical assistance to a Closure Action.

(~~g~~) "Family Child Care Learning Home" or "Home" means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six Children under 13 years of age who are not Related to such persons and whose Parent(s) are not residents in the same private residence as the Provider and which is required to be licensed; provided, however, that the total number of unrelated Children cared for in such Home, for pay and not for pay, may not exceed six Children under 13 years of age at one time, except that a Provider may care for two additional children three years of age or older for two designated one hour periods daily upon approval by the Department.

(~~h~~) "Fingerprint" means any inked fingerprint card or an electronic image of a person's fingerprint.

(~~k~~) "Fingerprint Records Check Application" means a document created by the Department to be completed and submitted to the Department by every actual and potential Provider and Employee (including residents, volunteers, Students-in-Training, independent contractors) of the Home that indicates the individual's name, facility type, and such other information as the Department deems appropriate and which authorizes the Department to receive and render a Fingerprint Records Check Determination pursuant to any criminal history record information received pertaining to the individual from any local, state, or national criminal justice or law enforcement agency.

(~~j~~) "Fingerprint Records Check Determination" means a satisfactory or unsatisfactory determination made by the Department that is based on national criminal history record information obtained by the use of Fingerprints.

(~~m~~) "Intermediate Action" means a moderately restrictive category of Enforcement Actions including public reprimands, fines, per rule fines, per day fines, restrictions, emergency monitoring and short-term suspension.

(~~kn~~) "License" means the document issued by the Department to authorize the License Holder to whom it is issued to operate a Family Child Care Learning Home in accordance with these rules.

(~~lo~~) "License Holder" means the individual issued a License by the Department to operate a Home at a particular location who is responsible for the operation and maintenance of the Home and who primarily provides care in the Home in accordance with these rules.

(~~mp~~) "Parent" means a person related within the second degree of consanguinity by either blood or marriage, or a person with lawful custody, or a state-regulated foster parent, or a legal guardian of a child in care. For purposes of these rules, a Parent shall not be considered an Employee unless such Parent is deemed an Employee by the Home or either resides in the Home or is compensated in any way the Home other than through appropriate state or federal funds.

(~~ng~~) "Plan of Correction" means a written plan prepared by the License Holder or applicant and submitted to and approved by the Department which states the procedure(s), method(s) and time frame(s) that will be used to correct the area(s) of noncompliance with these rules.

(~~or~~) "Preliminary Records Check Determination" means a written satisfactory or unsatisfactory determination by the Home based upon examination of an individual's Georgia Crime Information Center (GCIC) information obtained solely from a law enforcement agency.

(~~s~~) "Prevention Action" means the least restrictive category of Enforcement Actions including technical assistance, citation, formal notice letter and office conference.

(~~pt~~) "Provider" means the License Holder or applicant of a Family Child Care Learning Home who is also the person that primarily provides care in the Home.

(~~qu~~) "Provisional Employee" means a person other than the Provider or Employee, who has received a satisfactory Preliminary Records Check Determination, whose duties involve personal contact between that person and any Child being cared for at the facility and who is hired for ~~a~~ one limited period of employment in accordance with these rules.

(~~rv~~) "Records Check Clearance Date" means the date upon which an individual's fingerprint report was generated and which is noted on a letter of Satisfactory Records Check Determination issued by the Department.

(~~sw~~) "Related" or "Related Children" means children that are related to the Provider within the ~~second~~ third degree of consanguinity or affinity by either blood or marriage (i.e. sons, daughters, grandchildren, nieces, nephews, first cousins), or under the legal guardianship, custody or state-regulated foster care of the Provider.

(~~tx~~) "Satisfactory Records Check Determination" means a written determination that a person for whom either a preliminary or a fingerprint records check was performed was found to have no Criminal Record as defined in these rules.

(~~uy~~) "Supervision" and "Supervised" means that the Provider or authorized Adult providing care is alert, is providing watchful oversight to the Children, is able to respond promptly to the needs and actions of Children and can intervene promptly in the case of an emergency.

(~~vz~~) "Student-in-Training" means a student currently enrolled in either a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education which requires or permits the student to observe and participate in the care of Children at a Home during a limited period of time, i.e., one quarter, one trimester or one semester, provided that they are under the direct supervision of Home personnel at all times. Sixteen-year-old or younger Students-in-Training are exempt from criminal record check requirements.

(~~waa~~) "Unsatisfactory Records Check Determination" means a written determination that a person for whom either a preliminary or a fingerprint records check was performed was found to have a Criminal Record as defined in these rules.

(~~abb~~) "Valid Evidence" means proof of a Satisfactory Records Check Determination as follows:

1. Providers – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the date of licensure of the Home or a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed;

2. Provisional Employees – a valid and current satisfactory Preliminary Records Check Determination issued within the immediate preceding 10 days of the Provisional Employee’s date of hire;

3. Employees hired before January 1, 2014 – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the Employee’s date of hire, a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed, or, if prior to January 1, 2017, a valid and current satisfactory Preliminary Records Check Determination. As of January 1, 2017, a Preliminary Records Check Determination shall no longer be accepted as valid evidence;

4. Employees hired after January 1, 2014 – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the Employee’s date of hire or a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed.

(cc) “Violation Class” means the category on the compliance and enforcement chart that corresponds with the level of risk of harm or actual harm as a result of one or more rule violations.

(dd) “Violation History Level” means the category on the compliance and enforcement chart that corresponds with the prior history of continued rule violations.

Authority O.C.G.A. § 20-1A-1 *et seq.*

B. Bright from the Start proposes to amend Rule 290-2-3-.07 entitled “Staffing and Supervision” in its Rules and Regulations for Family Child Care Learning Homes. This amendment shall include the following:

290-2-3-.07 Staffing and Supervision

(1) The Provider shall be at least 21 years of age.

(2) Providers who apply for initial License shall submit valid evidence/documentation of one of the following credentials/degrees issued by either the organizations listed below, an accredited educational institution, or another organization approved/recognized by the Department:

(a) Child Development Associate (CDA) credential (issued by the Council for Professional Recognition);

(b) Technical Certificate of Credit (TCC) in Early Childhood Education;

(c) Technical College Diploma (TCD) in Early Childhood Education;

(d) Associate Degree in Early Childhood Education (AA, AAS, AAT);

(e) Paraprofessional Certificate (issued by the Georgia Professional Standards Commission);

(f) Bachelor’s degree in Early Childhood Education; or

(g) Master’s degree in Early Childhood Education.

(3) Providers and applicants who have submitted an application for License on or before June 30, 2009 shall be exempt from the requirement stated in (2)(a) through (g) above, except if the Family Child Care Learning Home closes for business and then submits a new application for License on or after July 1, 2009.

Any Provider who submits an application for License on or after July 1, 2009 must meet one of the education requirements listed above. Any Provider who submits a new application for License on or before June 30, 2009 shall have a high school diploma, General Education Diploma (GED), or similar credentials and shall submit valid evidence/documentation of such credential.

(4) Every Provider, Provisional Employee and Employee shall have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid which have been offered by certified or licensed health care professionals and which dealt with emergency care for infants and children. Additionally, the Provider shall attend ten clock hours of diverse training which is related to care of children and which is offered by an accredited college, university or vocational program or other Department approved source annually. Records of completion of such training programs shall be maintained in the Home by the Provider; as required by these rules. The annual ten clock hours of training shall be chosen from the following fields:

- (a) Child Development: including discipline, guidance, nutrition, injury control and safety;
- (b) Health: including sanitation, disease control, cleanliness, detection and disposition of illness;
- (c) Child Abuse and Neglect: including identification and reporting, and meeting the needs of abused and/or neglected children; and
- (d) Business Related Topics: including parental communication, recordkeeping, etc.; provided however that such business related training shall be limited to no more than two of the required ten clock hours of training.

(5) The Provider, Employees and Provisional Employees shall:

(a) Never have been shown by credible evidence, e.g., a court, a department investigation or other reliable evidence to have abused, neglected, sexually exploited, or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct as evidenced by an oral or written statement to this effect obtained at the time of application or hire or at any other time the Department has reason to believe that a Provider, Employee or Provisional Employee is not qualified under these rules to administer or work in the Home; and

(b) Must be able to perform adequately the job duties of providing for the care and supervision of the children in the Home in accordance with these rules; and

(c) Not have made any material false statements concerning qualifications requirements either to the Department or the Provider; and

(d) Have a Satisfactory Records Check Determination as defined in these rules; and

(e) Must provide additional reasonable verification of the qualifications of the Provider, Employees and Provisional Employees upon request by the Department. Reasonable verification may include, but need not be limited to any or all of the following: statement(s) from an attending physician or other health care professional attesting to the mental and/or physical health of the Provider, Provisional Employee or Employee; letters of reference from designated persons in the community where the Provider, Provisional Employees and/or Employees intend to work or is working; certified copies of court orders; and additional criminal records checks.

(6) The total number of Children not Related to the Provider in the Family Child Care Learning Home, for pay or not for pay, cannot exceed six Children, except that a Provider may care for two additional children who are three years of age or older for two designated one hour periods daily upon approval by the Department.

(7) At least one Adult shall supervise Children at all times. Such Adult, if not the Provider, shall receive orientation regarding these rules; the Provider's policies regarding discipline, injuries and illnesses, and release of Children; the Provider's written plan for handling emergencies; and appropriate information about any Child's specific health needs. Plans shall be made to obtain additional adult help in cases of emergencies.

(8) Whenever Related Children or Children who reside in the Home are present in the Home, the total number of children present under the age of thirteen years may not exceed twelve, and the space requirement of 35 square feet per each child present must be met.

(a) An assistant, who must be at least 16 years of age, must be present to assist with supervision whenever:

1. More than three children under the age of 12 months are present; or
2. More than six children under the age of three years are present; or
3. More than eight children under the age of five years are present.

(b) Any such assistant who is 17 years of age or older is considered an Employee for purposes of these rules and must have a Satisfactory Records Check Determination.

(9) If Children are allowed to participate in water activities where the water is over two feet in depth, the Provider or an Adult shall supervise such activities and must have successfully completed a training program in lifeguarding offered by a water-safety instructor certified by the American Red Cross or YMCA or other recognized standard setting agency for water safety instruction.

(a) For water-related activities where water is over two feet in depth, the following staff: Child ratios shall be maintained:

Ages of Children	Staff: Child Ratio
Under 2 1/2	1:2
2 1/2 to 4 years	1:5

4 years & older (who cannot swim a distance of 15 yds. unassisted)	1:6
4 years & older (who can swim a distance of 15 yds. unassisted)	1:8

(b) In lieu of requiring each Child four years and older to take a swimming test, the Provider may accept copies of verifications from a recognized water safety instruction organization stating that the Child has successfully completed a swimming class which required the Child to swim a distance of 15 yards unassisted.

(10) Provisional Employees. A licensed Home may hire Provisional Employees. All Provisional Employees:

- (a) Must be at least 17 years of age;
- (b) Must be informed of the rules for Family Child Care Learning Homes and the Home's policies and procedures for the age group for which they will be providing care;
- (c) Must be informed of the Home's policies and procedures necessary to the proper performance of their job duties in compliance with the Rules for Family Child Care Learning Homes;
- (d) Must have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children if the caregiver is the only Adult on the premises or field trip;
- (e) Must participate in the orientation and training required by the rules;
- (f) Must be able job duties of providing for the care and supervision of the children enrolled in the Home in accordance with these rules;
- (g) Must never have shown by credible evidence, e.g., a court, a department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of hire or at any other time. Upon said request, the Provisional Employee shall provide this statement to the Department;
- (h) Must have a satisfactory Preliminary Criminal Records Check Determination as determined by the Home based on Georgia Crime Information Center (GCIC) information obtained only from local law enforcement that was issued by the law enforcement agency within the immediate preceding 10 days of the hire date on file;
- (i) Must not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current License Holder;
- (j) May be hired for one period of provisional employment for up to 21 consecutive calendar days. This 21 day provisional employment period may be extended until the Department issues a Records Check Determination only if the individual:

1. Submitted for a Fingerprint Records Check Determination by the Department within the 21 calendar days of provisional employment; and

2. Submitted a Fingerprint Records Check Application to the Department within the 21 calendar days of provisional employment; and

(k) May be hired as a permanent Employee by the Home only if the individual receives a satisfactory Fingerprint Records Check Determination by the Department and meets all other qualification requirements in these rules.

(11) Independent Contractors. A Home may have an independent contractor to offer consistent supplemental educational or physical activities for Children in care.

(a) Such an independent contractor is an Employee of the Home for the purpose of these rules and must have a satisfactory Fingerprint Records Check Determination.

(b) Such an independent contractor is exempted from annual training and first-aid/CPR training requirements.

(c) Any independent contractor that does not offer consistent supplemental educational or physical activities for any Child in care cannot be solely responsible for any Child other than their own and must be under continuous direct supervision of the Provider, Home Employee or Provisional Employee while in the presence of Children other than their own.

(12) Parents. The Home may have Parents occasionally assist in a classroom, chaperone or accompany a group of Children from the Home on a field trip.

(a) A Parent that is this type of occasional assistant is not required to obtain a Criminal Records Check Determination; however, an Employee that is age 17 or older and who is also a parent of a Child in care at the Home is considered an Employee for purposes of these rules and must have a satisfactory Fingerprint Records Check Determination. Furthermore, a Parent shall not be considered an Employee of the Home unless such Parent is deemed an Employee by the Home or either resides at the Home or is compensated in any fashion by the Home except through appropriate state or federal funds.

(b) No Parent shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or Home Employee while in the presence of Children in care other than their own.

(c) Such Parent is exempted from annual training and first-aid/CPR training requirements.

(13) Volunteers. The Home may have volunteers other than Parents help in a classroom, chaperone or accompany a group of Children from the Home on a field trip.

(a) Volunteers age 17 and older that provide consistent services must have a satisfactory Fingerprint Records Check Determination.

(b) No volunteer shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or Home Employee while in the presence of Children other than their own.

(c) Such volunteer is exempted from annual training and first-aid/CPR training requirements.

(14) Students-in-Training. The Home may have Students-in-Training.

(a) Students-in-Training age 17 and older must have a satisfactory Fingerprint Records Check Determination.

(b) No Student-in-Training shall be solely responsible for Children other than their own and must be under continuous direct supervision of the Provider or a Home Employee while in the presence of Children in care other than their own.

(c) Such Student-in-Training is exempted from annual training and first-aid/CPR training requirements.

(15) Clerical, Housekeeping, Maintenance and Other Support Staff. The Home may have qualified and sufficient direct-care, clerical, housekeeping, maintenance and other support staff to ensure full compliance with these rules without neglecting the supervision of the Children.

(a) Other Staff That May Have Direct Contact With Children In Care. A Home may have additional staff at the Home. Any staff member that has any personal contact with any Child in care must:

1. Have a Satisfactory Records Check Determination as defined in these rules; and
2. May be exempted from annual training and first-aid/CPR training requirements.

(b) Other Staff That Must Not Have Direct Contact With Children In Care. The Home may have individuals at the Home to repair and/or maintain the Home while Children are in care. These individuals:

1. Must have no contact with Children in care;
2. May not be required to obtain a Fingerprint Records Check Determination, unless they have contact with Children in care; and
3. May be exempted from annual training and first-aid/CPR training requirements.

(16) Compliance with Applicable Laws and Regulations. The Provider, Employees and Provisional Employees shall not commit any criminal act, as defined under Georgia law, in the presence of any child enrolled in the Home and shall comply with all applicable laws and regulations.

Authority O.C.G.A. § 20-1A-1 *et seq.*

C. Bright from the Start proposes to amend Rule 290-2-3-.03 entitled “Enforcement and Penalties” in its Rules and Regulations for Family Child Care Learning Homes. This amendment shall include the following:

290-2-3-.15 Enforcement and Penalties-Adverse Actions

(1) Enforcement and Adverse Actions. Under Georgia law, the Department, after considering the seriousness of the violation(s), including but not limited to the circumstances, extent and gravity of the prohibited act(s), the severity of the rule violation, the duration of non-compliance, the License Holder's prior Licensure or history, the voluntary reporting of the violation(s) for which an adverse action is being imposed and the hazard(s) or potential hazard(s) to the health or safety of the public, may take any of the following actions when a Home, Permit Applicant or License Applicant violates any of the rules for Family Child Care Learning Homes:

- (a) Refuse to grant a License or Permit;
- (b) Administer a public reprimand;
- (c) Suspend any License or Permit;
- (d) Prohibit any License Applicant, License Holder, Permit Applicant or Permit Holder from allowing a person who previously was involved in the management or control of any program which has had its License or Permit revoked or denied within the past 12 months to be involved in the management or control of such program;
- (e) Revoke any License or Permit;
- (f) Impose a fine, not to exceed a total of \$25,000, of up to \$500 per day for each violation of the law, rule, regulation or formal order related to the initial or ongoing licensing requirement of any program. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable enforcement fine;
- (g) Impose a late fee of up to \$250 for failure of a program to pay the annual License fee within 30 days of the due date;
- (h) Limit or restrict any License or Permit, including but not limited to, restricting some or all services of or admissions, into a Home;
- (i) Seek an injunction against an early care and education program operating without a License or Permit or in willful violation of these rules;
- (j) Make application for an inspection warrant to a court of competent jurisdiction to gain entry into a Home that is believed to be subject to licensure;
- (k) Order the emergency placement of a monitor or monitors in a Home at the expense of the Home; and
- (l) Order the emergency closure of a Home.

(2) Adverse Actions Subject to the Compliance and Enforcement Chart. In the majority of cases when one or more rule violations are found, the Department will determine the appropriate action in accordance with the Compliance and Enforcement Chart below. A Home will receive points based on the frequency and severity of citations and will land in the corresponding box. Accordingly, Prevention, Intermediate or Closure Actions will be imposed as outlined in the Enforcement Categories, Levels and Action chart below. The Department will consider mitigating and aggravating factors to determine which action is appropriate and will have sole discretion in making this determination. The guidelines for determining the Violation History Level and Violation Class shall be posted on the Department website and updated as needed. Note that if a rule violation is not found, the chart will not be applied, and that a citation will be issued at every level other than P1.

COMPLIANCE AND ENFORCEMENT CHART

V I O L A T I O N C L A S S	Incident results in or could result in:	VIOLATION HISTORY LEVEL			
		I 0 Points	II 1-3 Points	III 4-9 Points	IV 10 + Points
D Extreme Harm or Risk of Harm Imminent Danger	D	I3-C			
	C High Harm or Risk of Harm	CI I1-I2 GS	CII I1-I3 S	CIII I2-C D	CIV I3-C D
	B Medium Harm or Risk of Harm	N/A	BII P2-P3 GS	BIII I1-I2 S	BIV I2-C D
	A Low Harm or Risk of Harm	AI P1-P2 GS	AII P1-P3 GS	AIII P2-P3 GS	AIV I1-I2 S

ENFORCEMENT CATEGORIES, LEVELS AND ACTIONS		
PREVENTION ACTION CATEGORY (P)	INTERMEDIATE ACTION CATEGORY (I) (Includes Citation and Prevention Actions)	CLOSURE ACTION CATEGORY (C) (Includes Citation and Prevention and/or Intermediate Actions)
Prevention 1 (P1)	Intermediate 1 (I1)	Closure (C)
Technical Assistance	Fine	Suspension of License (More than 1 week)
Prevention 2 (P2)	Intermediate 2 (I2)	Revocation of License
Citation	Per Rule Fine	Emergency Closure
Prevention 3 (P3)	Per Day Fine	
Formal Notice Letter	Intermediate 3 (I3)	
Office Conference	Public Reprimand	
	Fine and Restrictions	
	Restricted License	
	Restricted License & Per Rule/Per Day Fine	
	Emergency Monitor & Per Rule/Per Day Fine	
	Short-term Suspension (Less than 1 week)	

(3) Adverse Actions Not Subject to the Compliance and Enforcement Chart. In the event that any of the rule violations described below are identified, the Department will not apply the Compliance and Enforcement Chart, but will take Adverse Action as follows:

(a) The Department shall refuse to issue a License or shall otherwise restrict a License or Permit for any applicant who has had a License denied, suspended or revoked within one year of the date of the application.

(b) The Department shall refuse to issue a License or shall otherwise restrict a License for any applicant, alter ego or agent of the applicant who has transferred ownership or governing authority of a program when such transfer was made in order to avert payment of an enforcement fine, denial, revocation or suspension of such License.

(c) The Department shall refuse to issue a License upon a showing of non-compliance with rules and regulations, flagrant and continued operation of an unlicensed facility, or failure to pay the License fee.

(d) The Department shall refuse to issue a License or Permit if the applicant or the operation or management of a Home knowingly or intentionally makes or causes another to make any false statement of material information in connection with the application for a License or Permit, or in statements made, records maintained, or on documents submitted to the Department as part of an inspection, survey, or investigation.

(e) The Department shall refuse to issue a License or Permit if the applicant or Home fails to provide the Department with information pertinent to an investigation, or the initial or continued licensing of a program within the time specified by the formal notice provided by the Department.

(f) The Department shall refuse to issue a License or Permit if a Home repeatedly fails or refuses to allow the Department access to the Home for the purpose of determining whether the Home is in compliance with these rules.

(g) The Department shall refuse to issue a License or Permit if a Home knows or should reasonably know that any actual or potential Director, Employee (including Independent Contractors, Students-in-Training, and Volunteers) or Provisional Employee has a Criminal Record and allows such individual to either reside at the Home or be present at the Home while any child is present for care.

(h) The Department may revoke a License or Permit if a Home displays a multi-year pattern of failure to correct a correctable abuse, dereliction or deficiency in the operation or management of a Home within a reasonable time after having received notice from the Department.

(i) The Department shall revoke a License or Permit if a non-correctable abuse, dereliction or deficiency exists in the operation or management of the Home.

(j) The Department shall revoke a License if a Home fails to pay the annual License fee within a reasonable time after the Department provides formal notice of such fee.

(k) The Department shall revoke a License or Permit if a Home knows or should reasonably know that any actual or potential Director, Employee (including Independent Contractors, Students-in-Training, and Volunteers) or Provisional Employee has a Criminal Record and allows such individual to either reside at the Home or be present at the Home while any child is present for care.

(l) The Department shall revoke a License or Permit if a Home knowingly or intentionally violates other provisions relating to Criminal Records Checks.

(m) The Department shall revoke a License if a Home fails to pay an enforcement fine within the time specified by the formal notice provided by the Department.

(n) The Department shall revoke a License or Permit if the operation or management of a Home knowingly or intentionally makes or causes another to make any false statement of material information in connection with the application for a License or Permit, or in statements made, records maintained, or on documents submitted to the Department as part of an inspection, survey, or investigation.

(o) The Department shall revoke a License or Permit if a Home fails to provide the Department with information pertinent to an investigation, or the initial or continued licensing of a program within the time specified by the formal notice provided by the Department.

(p) The Department shall revoke a License or Permit if a Home repeatedly fails or refuses to allow the Department access to the Home for the purpose of determining whether the Home is in compliance with these rules.

(4) Rights and Responsibilities of a License Holder or Permit Holder

(a) A License Holder or Permit Holder has the right to submit a written statement within ten (10) days of the receipt of notice of the Departmental intent to impose an Adverse Action as to why the Department should not take the Adverse Action. If the licensee submits a written statement, it will be placed in the facility's state file.

(b) The imposition of any enforcement action by the Department shall not preclude the Department from taking any additional action authorized by law or regulation.

(c) Right to a Hearing. The Department's Enforcement Actions shall be preceded by a notice and opportunity for a hearing and shall constitute a contested case in accordance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to License or Permit revocation except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

(d) The notice of revocation, suspension or restriction of a License or Permit becomes effective thirty (30) days from the day of notice unless the License Holder or Permit Holder requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice or revocation, suspension or restriction.

(e) Payment of an enforcement fine must be made within thirty (30) days of receipt of the notice, unless otherwise specified in writing by the Department.

(f) The notice of the emergency closure of a Home becomes effective upon delivery of the order, unless otherwise provided in the order. A request for a hearing must be made in writing within 48 hours, excluding weekends and holidays, from the receipt of the emergency order.

(g) When the Department issues a revocation or emergency order that is based upon health and safety rule violations, the following actions shall be taken:

1. the Department shall both hand-deliver and send the formal notice to the Home by certified or registered mail;

2. the Home shall post the formal notice in an area that is visible to the Parents and others whose children attend the Home;

3. the Department shall provide a brief notice of revocation or emergency action to the Home; and

4. the Home shall distribute the brief notice to all Parents or persons authorized to pick up children from care for the Parents.

(h) When the Department issues a revocation or emergency order that is not based upon health and safety rule violations, the Department shall either hand-deliver or send the formal notice or both to the Home by certified or registered mail.

(i) The Department may post any notice of any Adverse Action on the Department's website.

(j) The Department may share any notice of any Adverse Action and any information pertaining thereto with any other agencies which may have an interest in the welfare of the children in care at the Home.

(k) When the Department has issued a notice of revocation or emergency order required to be posted in accordance with these rules, the Home shall ensure that the notice continues to be visible to the Parents and others throughout the pendency of the revocation or emergency action, including throughout any appeal period.

(l) When the Home transports children in care to and from the Home and Parents do not come to the Home on a regular basis, the Home shall send home copies of the brief notice of the revocation or emergency action with the children on the day that it is delivered by Department.

(m) When the Department has issued a notice of revocation or emergency action required to be posted in accordance with these rules, the Home shall post any inspection reports that are prepared by the Department during the pendency of any revocation or emergency action in an area that is readily visible to the Parents and others.

(n) A Home shall not permit the removal or obliteration of any notices of revocation, emergency action, resolution, or inspection survey report posted on the premises of the Home during the pendency of any revocation or emergency action.

~~No Family Child Care Learning Home shall operate in the State without a License that has been issued by the Department. A License to operate a Family Child Care Learning Home may be denied, revoked, restricted or suspended, if applicable, in accordance with the following:~~

~~(a) Refusal of a License. The Department shall refuse to issue a License upon a showing of:~~

~~—1. Noncompliance with the Rules and Regulations for Family Child Care Learning Homes which are designated in writing to the facilities as being related to children's health and safety; or~~

~~—2. Flagrant and continued operation of an unregistered or unlicensed Family Child Care Learning Home in contravention of the law; or~~

- 3. Prior License denial or revocation within one (1) year of application; or
- 4. Where the Department determines that a License applicant knows or should reasonably know that any actual or potential Provider, Employee or Provisional Employee has a Criminal Record and allows such individual to either reside at the Home or be present at the Home while any child is present for care; or
- 5. Where the Department determines that a License applicant knowingly or intentionally violates other provisions relating to Criminal Records Checks.

(b) Refusal of a License. The Department may refuse to issue a License upon a showing of:

- 1. The applicant or the agent of the applicant denies the Department representative access to the Family Child Care Learning Home for the purposes of determining whether a License will be granted; or
- 2. The applicant, Provisional Employees or Employees of the Family Child Care Learning Home do not undergo the applicable records checks and receive Satisfactory Records Check Determinations; or
- 3. The applicant or agent of the applicant knowingly makes any false statement of material information in connection with the application for License, or in the alteration or falsification of records maintained by the applicant in connection with the application for License; or
- 4. The applicant or alter ego of the applicant has transferred ownership or governing authority of a Family Child Care Learning Home or a Child Care Learning Home within one (1) year of the date of the new application when such transfer was made in order to avert denial, suspension, restriction or revocation of a License; or
- 5. The applicant or alter ego of the applicant or persons in management or control of the Family Child Care Learning Home have failed to pay a civil penalty or enforcement fine previously imposed by the Department.

(c) Revocation of a License. The Department shall revoke any License in the following instances:

- 1. Where the Department determines that a License Holder knows or should reasonably know that any actual or potential Provider, Provisional Employee or Employee has a Criminal Record and allows such individual to either reside at the Home or be present at the Home while any Child is present for care; or
- 2. Where the Department determines that a License Holder knowingly or intentionally violates other provisions relating to Criminal Records Checks.

(d) Revocation of a License. The Department may revoke a License in the following instances:

- 1. Where the Department's representative is refused access to the Family Child Care Learning Home for the purpose of determining whether the Family Child Care Learning Home is in compliance with these rules; or
- 2. Where the Department determines that a non-correctable deficiency, abuse or dereliction exists in the operation or management of the Family Child Care Learning Home; or
- 3. Where the Department determines that a correctable abuse, dereliction or deficiency in the operation or management of the Family Child Care Learning Home has not been corrected within a reasonable time after:
 - (i) Having been brought immediately to the attention of the administrator of the Family Child Care Learning Home by a Department representative; and
 - (ii) Having been advised in writing of the deficiencies and setting a time not to exceed ten (10) Working days for the filing of an acceptable Plan of Correction; and
 - (iii) The Provider fails to submit an acceptable Plan of Correction to the Department within the specified time limits. In determining whether a Plan of Correction is acceptable, the Department will consider the extent of the deficiencies, whether the Provider has previously been cited for the same deficiencies, the history of compliance including whether the Provider has complied with previous Plans of Correction, and whether the correction required can be maintained over time; or

- 4. The Provider fails to follow the accepted Plan of Correction; or
- 5. Where the Provider allow a Provisional Employee with an unsatisfactory Preliminary Records Check Determination to reside in or be present at the Home while any Child is present for care; or
- 6. Where there is a flagrant abuse, dereliction or deficiency that constitutes shocking intentional misconduct; or
- 7. Where the Provider, an Employee or Provisional Employee of the Home knowingly makes any false statement of material information in connection with any statement made or on any documents submitted to the Department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the Home; or

~~—8. Where the Provider or alter ego of the Provider fails to pay a civil penalty or enforcement fine imposed by the Department after the time period for requesting an appeal of the notice of imposition of civil penalty or enforcement fine has expired and no appeal was submitted within required time frame in accordance with these rules and regulations; or~~

~~—9. Where the Provider fails to pay a civil penalty or enforcement fine imposed by the Department after submitting a timely appeal of the notice of imposition of civil penalty or enforcement fine and the imposition of the civil penalty or enforcement fine has been affirmed in accordance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 *et seq.*, and applicable law.~~

(e) Suspension of a License. The Department may suspend the License to operate a Family Child Care Learning Home in the following instances:

~~—1. Where the Provider, an Employee or a Provisional Employee of a Family Child Care Learning Home does not undergo the applicable criminal records checks and receive Satisfactory Records Check Determinations; or~~

~~—2. Where the Department finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to this effect in its order summarily suspending the license pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.~~

(f) Restriction of a License. The Department may restrict or limit a License from providing certain kinds of care or services to children or limiting the number and/or age of the children who may be served if the Department determines that the Provider either cannot comply with these rules or has not complied with these rules.

(g) Emergency Order. Notwithstanding other remedies available to the Department which may be pursued at the same time, the Commissioner or his/her designee may order the emergency placement of a monitor or monitors in a Family Child Care Learning Home in accordance with the following:

~~—1. The Department's rules and regulations are being violated which threaten the health, safety, or welfare of Children in care and when one or more of the following conditions are present:~~

~~— (i) The Family Child Care Learning Home is operating without a License; or~~

~~— (ii) The Department has denied the License or has initiated action to revoke the existing License of the Family Child Care Learning Home; or~~

~~— (iii) Children are suspected of being subjected to injury or life threatening situations or the health or safety of a child or children is in danger.~~

~~—2. A monitor may be placed in a Family Child Care Learning Home for no more than ten (10) consecutive calendar days, during which time the monitor shall observe conditions and regulatory compliance with any recommended remedial action of the Department. Upon expiration of the ten (10) day period, should conditions warrant, the initial ten (10) day period may be extended for an additional ten (10) day period. The monitor shall report to the Department. The monitor shall not assume any administrative responsibility within the Family Child Care Learning Home, nor shall the monitor be liable for any actions of the Family Child Care Learning Home. The salary and related costs and travel and subsistence allowance as defined by Department policy of placing a monitor in a Family Child Care Learning Home shall be reimbursed to the Department by the Family Child Care Learning Home, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the costs associated with the monitor shall be paid by the Department.~~

~~—3. The emergency order shall contain the following:~~

~~— (i) The scope of the order;~~

~~— (ii) The reasons for the issuance of the order;~~

~~— (iii) The effective date of the order if other than the date the order is issued;~~

~~— (iv) The person to whom questions regarding the order are to be addressed; and~~

~~— (v) Notice of the right to a preliminary hearing.~~

~~—4. Unless otherwise provided in the order, an emergency order shall become effective upon its service to the owner of the Family Child Care Learning Home or any other agent, Provisional Employee, Employee, or person in charge of the Family Child Care Learning Home at the time of the service of the order.~~

~~—5. The request for a preliminary hearing shall be made in writing within five (5) days from the time of service, excepting weekends. The request must be made to the representative of the Department designated in the order. Unless a request is made to appear in person, the preliminary hearing shall consist of an administrative review of the record, written evidence submitted by the Family Child Care Learning Home affected, and a preliminary written argument in support of its contentions.~~

~~—6. If a request is made to appear in person at the preliminary hearing, the Family Child Care Learning Home shall provide the name and address of the person or persons, if any, who will be representing the Family Child Care Learning Home in the preliminary hearing.~~

~~—7. Upon receipt of a request for a preliminary hearing, the Department shall set and give notice of the date, time and location of the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefore but in no event later than seventy two (72) hours after such request, provided that a Family Child Care Learning Home may request that such hearing be held earlier; provided, however, that in no event will a hearing be held on a weekend or holiday.~~

~~—8. If a personal appearance is requested, the preliminary hearing shall consist of a review of the evidence in the record, any additional evidence introduced at the hearing, and any arguments made. A recording shall be made of the hearing.~~

~~—9. The Department shall, where practicable, issue an immediate oral order and shall, in all instances, issue a written order within four (4) business days after the close of the hearing.~~

~~—10. Pending final appeal of the validity of any emergency order issued as provided for pursuant to O.C.G.A. § 20-1A-13, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner or his/her designee.~~

~~—11. The Department is not precluded from taking any other actions permitted by other laws or regulations during the time that an emergency order is in force.~~

(h) Right to a Hearing. The Department's action revoking or refusing to renew or issue a License required pursuant to O.C.G.A. § 20-1A-1 *et seq.* or any other adverse action, such as the imposition of an enforcement fine, the restriction or suspension of a License, shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 *et seq.*, except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to License revocation and except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

~~—1. In connection with the Department instituting proceedings to revoke, suspend, restrict or refuse to renew a previously issued License, the Department shall provide notice sent by certified mail setting forth the facts or conduct which has warranted the Department's action. The notice shall inform the Provider of the opportunity to demonstrate that the Home was in full compliance with all lawful requirements for the retention of the License at the time that the facts or conduct warranting the revocation, suspension or restriction action allegedly occurred. However, this notice shall not be required in the following instances:~~

~~— (i) The Department finds that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, in which case summary suspension of the License may be ordered pending proceedings for revocation or suspension or other action, which proceeding shall be promptly instituted and determined; or~~

~~— (ii) The Department's order is expressly required, by a judgment or a statute, to be made without the right to or hearing or continuance of any type.~~

~~—2. The notice of revocation, suspension or restriction of a License becomes effective thirty (30) days from the day of notice unless the License holder requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice of revocation, suspension or restriction.~~

(i) Notice of Hearing. If the License Holder requests a hearing, a notice of hearing shall be mailed or served personally on the Provider. The notice shall contain the following:

~~—1. A statement of the date, time, place and nature of the hearing;~~

~~—2. A statement of the legal authority and jurisdiction under which the hearing is to be held;~~

~~—3. A reference to the particular section of the statutes and rules involved;~~

~~—4. A short and plain statement of the matters asserted. The Department may refer to any child that is the subject of a deficiency or violation in the notice by the child's initials. The name of the child so referenced will be released orally to the License Holder upon written request to the Department. If the Department is unable to state the matters in detail at the time, the notice may be limited to a statement of the issues involved. Thereafter, upon application approved by the hearing officer, a more definite and detailed statement shall be furnished; and~~

~~—5. A statement as to the right of any party to subpoena witnesses and documentary evidence through the Department.~~

(j) ~~Inspection Warrants. If a Department representative is denied entrance to a Family Child Care Learning Home which is believed to be subject to licensure, an application for an inspection warrant may be made by the Department to a court of competent jurisdiction and, if granted, used to gain entry to that Family Child Care Learning Home.~~

(k) ~~Injunctive Relief. The Department may without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of a Family Child Care Learning Home without a License or the continued operation of a Family Child Care Learning Home in willful violation of O.C.G.A. § 20-1A-1 *et seq.* or of any regulation of the Department or in violation of any other order of the board or of the Department.~~

(l) ~~Criminal Penalties. The criminal penalties which may be imposed for violation of these rules are as follows:~~

~~—1. Any person who violates the provisions of O.C.G.A. § 20-1A-1 *et seq.* or who hinders, obstructs, or otherwise interferes with any representative of the Department in the discharge of that person's official duties in making inspections or in investigating complaints shall be guilty of a misdemeanor.~~

~~—2. Any person who shall make, utter, execute, or submit to the Department any oral or written representation, knowing the same to be false, for the purpose of obtaining anything of value, including any service, shall be guilty of a misdemeanor.~~

~~—3. Any person who operates an early care and education program without a currently valid License issued by the Department is subject to the provisions O.C.G.A. § 20-1A-10(t) which provides that such person shall be guilty of a misdemeanor and, upon conviction, shall be punished by imposition of a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) or imprisonment not exceeding 12 months, or both, for each offense. Each day of operation without a License constitutes a separate criminal offense.~~

(m) ~~Enforcement Fines. The Department may assess an enforcement fine of up to five hundred dollars (\$500) per day for each rule violation, not to exceed a total of twenty five thousand dollars (\$25,000). The Department may assess enforcement fines in accordance with the following:~~

~~—1. A fine, not exceeding five hundred dollars (\$500) per day for each rule violation, may be assessed by the Department against any Family Child Care Learning Home Provider who:~~

~~— (i) Violates any licensing provision of O.C.G.A. § 20-1A-1 *et seq.* or any rule, regulation, or order issued under O.C.G.A. § 20-1A-1 *et seq.* or any term, condition, or limitation of any License under O.C.G.A. § 20-1A-1 *et seq.* thereby subjecting a child in care to injury or a life threatening situation; or~~

~~— (ii) Commits any violation for which a License may be revoked.~~

~~—2. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable enforcement fine.~~

~~—3. Whenever the Department proposes to subject a Provider to the imposition of an enforcement fine, it shall notify such Provider in writing. The notice shall set forth the following:~~

~~— (i) The date, facts, and nature of each act or omission with which the Provider is charged;~~

~~— (ii) The specific and particular provisions of the Official Code of Georgia Annotated section, the rule, regulation, order, and License involved in the violation;~~

~~— (iii) Each fine which the Department proposes to impose and its amount;~~

~~— (iv) That the Provider has an opportunity to show in writing, within ten (10) days of the receipt of the notice, why such fine should not be imposed;~~

~~— (v) That the failure to pay the enforcement fine, subsequently determined by the Department, if any, may result in collection through a civil action (lawsuit); and~~

~~— (vi) That the Provider also has the right to appeal the imposition of the enforcement fine pursuant to the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 *et seq.*, by filing a timely request for a hearing within ten (10) days of receipt of the notice.~~

~~—4. The written notice of the intention to impose an enforcement fine shall be sent by registered or certified mail by the Department to the last known address of such Provider.~~

~~—5. The amount of the enforcement fine will be assessed in accordance with the following:~~

~~— (i) A fine of five hundred dollars (\$500) per day for each rule violation may be assessed for any violation of these rules which has resulted in a disabling or permanent injury or the death of a child;~~

~~— (ii) A fine ranging from three hundred dollars (\$300) to four hundred ninety nine dollars (\$499) per day for each rule violation may be assessed for any violation of these rules which has resulted in an injury or harm to a child but has left no disabling or permanent physical damage;~~

—(iii) A fine ranging from fifty dollars (\$50) to two hundred ninety nine dollars (\$299) per day for each rule violation may be assessed for any violation of these rules which demonstrates a reckless and serious disregard for the physical or mental health or safety of a Child in care but which may or may not result in physical injury to a child or for any other violation of these rules for which a License may be revoked.

—6. The Department will consider in assessing an enforcement fine the severity of the rule violation, the duration of noncompliance, the holder of the License's prior history, and the voluntary reporting of the violation for which the fine is being imposed on the License holder or applicant.

—7. The assessment of an enforcement fine will not preclude the Department from taking any additional actions authorized by law or regulation including but not limited to License restriction, suspension, revocation, emergency monitors or the seeking of an injunction against the continued operation of the Family Child Care Learning Home.

(n) ~~Complaints.~~ All complaints concerning unlicensed Family Child Care Learning Homes may be submitted to the Department by telephone, letter, e-mail, facsimile or personal conference. ~~Complaints will be investigated by a Department representative, if appropriate. A written report of the findings of the investigation will be sent to the complainant upon request where authorized by law.~~

Authority O.C.G.A. § 20-1A-1 *et seq.*

D. Bright from the Start proposes to repeal Rule 290-2-3-.18 entitled “Notice of Revocation or Emergency Suspension Actions” in its Rules and Regulations for Family Child Care Learning Homes. This amendment shall include the following:

~~290-2-3-.18 Notice of Revocation or Emergency Suspension Actions~~

~~(1) The Department shall provide notice of its actions to revoke the license or seek an emergency suspension of the Home's license to operate to Parents and others who may have children in the care of the Home. This notice, together with the Department's complaint intake phone number and website, shall be provided to Parents and others through the following methods:~~

—(a) ~~The posting of the official notice of the revocation or emergency suspension action and any final resolution at the Home by Departmental staff in an area that is visible to the Parents whose children attend the Home;~~

—(b) ~~The posting of the official notice of the revocation or emergency suspension action and any final resolution on the Department's website; and~~

—(c) ~~The distribution by Departmental staff of a brief notice of the initial filing of actions to revoke or suspend the Home's License to the Parents or persons authorized to pick up the children from care for the Parents who are at the Home at the time that the notice of revocation or emergency suspension is posted by the Department.~~

~~(2) In addition, the Department may share any notice of the revocation or emergency suspension action and any information pertaining thereto with any other agencies which may have an interest in the welfare of the children in care at the Home.~~

~~(3) When the Department has posted a notice of revocation and/or emergency suspension actions in the Home, the Home shall ensure that the notice at the Home continues to be visible to the Parents and others throughout the pendency of the revocation and emergency suspension actions including any appeals. Where the Home provides transportation of the children in care to and from the Home and the Parents or others responsible for the care of the children do not come to the Home on a regular basis, the Family Child Care Learning Home shall send home with the children on the day that it is delivered by Departmental staff copies of the brief notice of the revocation or emergency suspension action to the Parents or others who are responsible for the care of the children enrolled in the Home.~~

~~(4) The Family Child Care Learning Home shall have posted at the Home in an area that is readily visible to the Parents and others any inspection reports that are prepared by the Department during the pendency of any revocation or emergency suspension action.~~

~~(5) It shall be a violation of these rules for the Home to permit the removal or obliteration of any notices of revocation, emergency suspension action, resolution, or inspection survey reports posted by the Department on the premises of the Home during the pendency of any revocation or emergency suspension action.~~

Repealed.

Authority O.C.G.A. § 20-1A-1 *et seq.*

II. Proposed Amendments to Chapter 591-1-1, *Rules and Regulations for Child Care Learning Centers.*

A. Bright from the Start proposes to amend Rule 591-1-1.02 entitled “Definitions” in its *Rules and Regulations for Child Care Learning Centers.* This amendment shall include the following:

591-1-1-.02 Definitions

In these rules, unless the context requires otherwise, the capitalized symbols, words and phrases set forth herein shall mean the following:

(a) "Adult" means any competent individual eighteen (18) years of age or older.

(b) “Adverse Action” means any Intermediate or Closure Action issued as a result of one or more rule violations.

(c) “Child Care Learning Center” or “Center” means any place operated by an individual or any business entity recognized under Georgia law wherein are received for pay for group care, for fewer than 24 hours per day without transfer of legal custody, seven or more children under 18 years of age and which is required to be licensed. Child Care Learning Center also includes any day care center previously licensed by the Department of Human Resources and transferred pursuant to Code Section 20-1A-1 et seq.

~~—(e)(d)~~ (d) “Child with Special Needs” means a child enrolled in a Center who, due to a physical problem, mental health disorder, behavioral disorder, or developmental disability, which is either permanent or temporary, requires some adaptation of the Center’s standard program of care or activities to accommodate the child’s special needs.

(e) “Closure Action” means the most restrictive category of Enforcement Actions including emergency closure, long-term suspension and revocation.

~~(d)(f)~~ (f) “Correctable Abuse Dereliction or Deficiency” means any conduct of a License or Permit Holder which violates any of these rules wherein the Department determines that the rule violation is not the result of any Non-Correctable Abuse, Dereliction or Deficiency.

~~(e)(g)~~ (g) “Crime” means

1. Any felony;
2. A violation of O.C.G.A. § 16-5-23, relating to simple battery, where the victim is a minor;
3. A violation of O.C.G.A. § 16-5-23.1, relating to battery, where the victim is a minor;
4. A violation of O.C.G.A. § 16-21-1, relating to contributing to the delinquency of a minor;
5. A violation of O.C.G.A. § 16-6-1 et seq. relating to sexual offenses;
6. A violation of O.C.G.A. § 16-4-1, relating to criminal attempt when the crime attempted is any of the crimes specified by this paragraph; or
7. Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.

~~(f)(h)~~ (h) “Criminal Record” means:

1. Conviction of a crime; or
2. Arrest, charge, and sentencing for a crime where:
 - (i) A plea of nolo contendere was entered to the charge; or
 - (ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this division shall not apply to a violation of O.C.G.A. § 16-13-1 et seq., relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of O.C.G.A. § 16-13-1 et seq. if such violation or offense constituted only simple possession; or
 - (iii) Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of O.C.G.A. § 16-13-1 et seq. relating to controlled substances, or any other

offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or

3. Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. § 17-3-1 et seq.

~~(g)~~ (i) "Department" means Bright from the Start: Georgia Department of Early Care and Learning.

~~(h)~~ (j) "Director" means the on-site manager of a Child Care Learning Center designated by the legal owner who is responsible for the supervision, operation and maintenance of the Center and meets the minimum qualifications as determined by the Department.

~~(i)~~ (k) "Employee" means any person, other than a Director or Provisional Employee, who is 17 years of age or older; and

1. Who is employed by a Center to perform at any of the Center's facilities any duties which involve personal contact between that person and any child being cared for at the facility; or

2. Who resides at the facility; or

3. Who performs duties for the Center, with or without compensation, which involve personal contact between that person and any child being cared for by the Center, including but not limited to volunteers that perform consistent services for the Child Care Learning Center; or

4. Who is employed by a Center and who also has a child in care at the Center; or

5. Who is an independent contractor hired by the Center to offer consistent supplemental educational or physical activities for children in care; or

6. Who is a Student-in-Training.

(l) "Enforcement Action" means any action issued as a result of one or more rule violations ranging from technical assistance to a Closure Action.

~~(m)~~ "Evening Care" means care provided to any child at a Center between the hours of 7:00 p.m. and 12:00 midnight.

~~(n)~~ "Field Trip" means an excursion or program activity with a specific destination away from the Center. It does not include routine school or home pick-up and deliveries or transporting children to and from activities or events where the provider of the activities or the events assume responsibility for the children during the entirety of the event or activity, such as in dance classes or art lessons or regularly scheduled trips to the local public libraries.

~~(o)~~ "Fingerprint" means an inked fingerprint card or an electronic image of a person's fingerprint.

~~(p)~~ "Fingerprint Records Check Application" means a document created by the Department to be completed and submitted to the Department by every actual and potential Director and Employee (including residents, volunteers, Students-in-Training, independent contractors) of the Center that indicates the individual's name, Center type, and such other information as the Department deems appropriate and which authorizes the Department to receive and render a Fingerprint Records Check Determination pursuant to any criminal history record information received pertaining to the individual from any local, state or national criminal justice or law enforcement agency.

~~(q)~~ "Fingerprint Records Check Determination" means a satisfactory or unsatisfactory determination made by the Department that is based upon national criminal history record information obtained by the use of Fingerprints.

~~(r)~~ "Group" means a specific number of children assigned to specific Staff throughout the day. More than one Group may occupy the same physical space.

~~(s)~~ "Infant" means any child who is under twelve (12) months of age or any child who is under eighteen (18) months of age and who is not yet walking.

(t) "Intermediate Action" means a moderately restrictive category of Enforcement Actions including public reprimands, fines, per rule fines, per day fines, restrictions, emergency monitoring and short-term suspension.

~~(u)~~ "License" means the document issued by the Department to authorize the License Holder to whom it is issued to operate a Center in accordance with these rules. (In lieu of a License, a commission may be issued to a local church ministry, religious nonprofit school or nonprofit religious charitable organization. The requirements to obtain a commission under these rules shall be identical to those for a License.)

~~(v)~~ "License Holder" means the individual or business entity holding a License issued by the Department to operate a Center at a particular location and having responsibility for the operation and maintenance of the Center in accordance with these rules.

(~~sw~~) "Night-time Care" means care provided to children at the Center between the hours of 12:00 midnight and 6:00 a.m.

(~~tx~~) "Non-Correctable Abuse, Dereliction or Deficiency" means an abuse, dereliction or violation of these rules which demonstrates any of the following:

1. Flagrant and shocking intentional misconduct by the Center or Center Staff where those responsible for the operation of the Center knew or should have known of the likelihood of Staff to commit such acts;

2. An intentional or reckless disregard for the physical health, mental health or safety of a child in care which may or may not result in physical injury to the child by the Center or the Center Staff where those responsible for the operation of the Center knew or should have known of the likelihood of Staff to disregard; or

3. Some causal connection between the intentional violation of a rule and the death or major injury of a child in care; ~~or~~

~~—4. An intentional disregard of a particular rule(s) which relates directly to the health or safety of a child in care where the Center has previously been cited for non-compliance with the particular rule(s) within the past twelve (12) months and has failed to sustain the remedial action(s) set forth in a previous Plan of Correction within that twelve-month period.~~

(~~uy~~) "Parent" means a person related within the second degree of consanguinity by either blood or marriage, or a person with lawful custody, or a state-regulated foster parent, or a legal guardian of a child in care. For purposes of these rules, a Parent shall not be considered an Employee unless such Parent is deemed an Employee by the Center or either resides in the Center or is compensated in any way by the Center other than through appropriate state or federal funds.

(~~vz~~) "Permit" means the temporary document issued by the Department authorizing a Child Care Learning Center to operate without a License for a limited term and in accordance with these rules.

(~~wa~~) "Permit Applicant" means an individual or any business entity recognized under Georgia law applying for a Permit from the Department as defined in these rules.

(~~xb~~) "Permit Holder" means the individual or business entity issued a Permit by the Department to operate a Center at a particular location that is responsible for the operation and maintenance of the Center in accordance with these rules.

(~~yc~~) "Personnel" or "Staff" means all persons including the Director, all full or part time Employees and Provisional Employees, who perform consistent services for the Child Care Learning Center and have personal, direct or indirect contact with children at the Center.

(~~zd~~) "Plan of Correction" means a written plan prepared by the authorized agent of the Center submitted to and approved by the Department which states the procedure(s), method(s) and time frame(s) that will be used to correct the area(s) of non-compliance with these rules.

(~~ae~~) "Preliminary Records Check Determination" means a written satisfactory or unsatisfactory determination by a Center based on an examination of an individual's Georgia Crime Information Center (GCIC) information obtained solely from a law enforcement agency.

(ff) "Prevention Action" means the least restrictive category of Enforcement Actions including technical assistance, citation, formal notice letter and office conference.

(~~bg~~) "Provisional Employee" means a person other than a Director or Employee, who has received a satisfactory Preliminary Records Check Determination, whose duties involve personal contact between that person and any child being cared for at the facility, and who is hired for a one limited period of employment in accordance with these rules.

(~~eh~~) "Qualified" or "Qualifications" means that a person possesses, in addition to the other requirements set forth in these rules, certain minimum personal and health requirements necessary to administer or be employed in a Center. A person may be considered by the Department to be qualified with respect to the minimum personal and health criteria when he or she has a Satisfactory Records Check Determination; is able to perform adequately the job duties of providing for the care and supervision of the children enrolled in the Center in accordance with these rules; has not made any material false statements relating to any licensure requirement to the Department, the Permit Holder or the License Holder; and has not been shown by credible evidence, e.g., a finding of fact made by a court, jury or department investigation or other reliable evidence, to have abused, neglected, or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct.

(~~di~~) "Qualifying Work Experience" means verifiable experience working directly with children.

(eejj) “Records Check Clearance Date” means the date upon which an individual’s fingerprint report was generated and which is noted on a letter of Satisfactory Records Check Determination issued by the Department.

(ffkk) “Satisfactory Records Check Determination” means a written declaration that a person for whom either a preliminary or a fingerprint records check was performed was found to have no Criminal Record as defined in these rules.

(ggll) "School-age Children" means children who are at least five (5) years old by the first of September of the current school year and who are eligible to attend public school.

(hhmm) "School-age Center" means a Child Care Learning Center, or part thereof with separate physical facilities and a separate License, which provides day-time care exclusively to School-age Children-before and/or after the normal school day. Such programs may operate a full-day program solely for the School-age Children enrolled in the program during the regular school year during those periods when school is not in session.

(iinn) “Student-in-Training” means a student currently enrolled in either a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education which requires or permits the student to observe and participate in the care of children at a Center during a limited period of time, i.e., one quarter, one trimester or one semester, provided that they are under the direct supervision of Center Personnel at all times. Sixteen-year-old or younger Students-in-Training are exempt from criminal record check requirements.

(jjoo) “Unsatisfactory Records Check Determination” means a written declaration that a person for whom either a preliminary or fingerprint records check was performed was found to have a Criminal Record as defined in these rules.

(kkepp) “Valid Evidence” means proof of a Satisfactory Records Check Determination as follows:

1. Directors – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the Director’s date of hire or a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed;

2. Provisional Employees – a valid and current satisfactory Preliminary Records Check Determination issued within the immediate preceding 10 days of the Provisional Employee’s date of hire;

3. Employees hired before January 1, 2014 – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the Employee’s date of hire, a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed, or, if prior to January 1, 2017, a valid and current satisfactory Preliminary Records Check Determination. As of January 1, 2017, a Preliminary Records Check Determination shall no longer be accepted as valid evidence;

4. Employees hired after January 1, 2014 – a current satisfactory determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding one year of the Employee’s date of hire or a current and valid court order indicating that an unsatisfactory determination made by the Department has been reversed.

(qq) “Violation Class” means the category on the compliance and enforcement chart that corresponds with the level of risk of harm or actual harm as a result of one or more rule violations.

(rr) “Violation History Level” means the category on the compliance and enforcement chart that corresponds with the prior history of continued rule violations.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

B. Bright from the Start proposes to amend Rule 591-1-1.31 entitled “Staff” in its Rules and Regulations for Child Care Learning Centers. This amendment shall include the following:

591-1-1.31 Staff

(1) Director.

(a) A Center must have a Director who is responsible for the supervision, operation and maintenance of the Center. The Director must be on the Center’s premises. If the Director is absent from the Center at any time during the hours of the Center’s operation, there shall be an officially designated person on the Center site to assume responsibility

for the operation of the Center, and this person shall have full access to all records required to be maintained under these rules.

(b) Qualifications of Director. The Director must meet the minimum qualifications listed below.

1. Be at least twenty-one (21) years of age;

2. Possess at least one of the following sets of minimum academic requirements and qualifying child care experience:

(i) Child Development Associate (CDA) credential issued by the Council for Professional Recognition; Child Development and Related Care diploma from a vocational institute accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or similar credential where the course of study includes an intensive practicum in child care as part of the curriculum and which is approved by the Department; and six (6) months of qualifying child care experience;

(ii) Technical Certificate of Credit (TCC) in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(iii) Technical Certificate of Credit (TCC) in Infant and Toddler and six (6) months of qualifying child care experience;

(iv) Technical Certificate of Credit (TCC) in Program Administration and six (6) months of qualifying child care experience;

(v) Technical Certificate of Credit (TCC) in School Age and Youth Care and six (6) months of qualifying child care experience;

(vi) Technical College Diploma (TCD) in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(vii) Forty-hour (40) director training course approved by the Department and has been employed for a minimum of five (5) years as an on-site Child Care Learning Center Director or as an on-site Group Day Care Home Director;

(viii) Associate's degree in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(ix) Paraprofessional Certificate issued by the Georgia Professional Standards Commission and six (6) months of qualifying child care experience;

(x) Twenty-five (25) quarter hours or fifteen (15) semester hours from an accredited college or university in Early Childhood Education or Child Development and six (6) months of qualifying child care experience;

(xi) Bachelor's degree from an accredited college or university in a field other than Early Childhood Education or Child Development and three (3) months of qualifying child care experience;

(xii) Bachelor's degree from an accredited college or university in Early Childhood Education or Child Development;

(xiii) Master's degree from an accredited college or university in Early Childhood Education or Child Development;

3. Have current evidence of successful completion of biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children as defined in these rules;

4. Participate in the orientation and training required by these rules;

5. Must be able to perform adequately the job duties of providing for the care and supervision of the children enrolled in the Center in accordance with these rules;

6. Never have been shown by credible evidence, e.g., a court or jury, a department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the Director or Staff shall provide this statement to the Department;

7. Have a Satisfactory Records Check Determination as defined in these rules; and

8. Not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current License Holder, Permit Holder or commission holder.

(c) Required Records. A copy and/or written verification of the credential or degree awarded to the Director listed in 591-1-1-.31(1)(b)2.(i) through (xiii) shall be maintained by the Center in the Director's file-, and such documentation shall be available for inspection and provided to Department staff upon request.

(2) Teacher/Lead Caregiver.

(a) A Center with a licensed capacity of 19 or more children must have a designated teacher/lead caregiver for each group of children.

(b) Qualifications of Teacher/Lead Caregiver. The teacher/lead caregiver must meet the minimum qualifications listed below.

1. Be at least eighteen (18) years of age;

2. Possess at least one of the following sets of minimum academic requirements and qualifying experience at the time of employment:

(i) Child Development Associate (CDA) credential issued by the Council for Professional Recognition; Child Development and Related Care diploma from a vocational institute accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or similar credential where the course of study includes an intensive practicum in child care as part of the curriculum and which is approved by the Department;

(ii) Technical Certificate of Credit (TCC) in Early Childhood Education or Child Development;

(iii) Technical Certificate of Credit (TCC) in Infant and Toddler;

(iv) Technical Certificate of Credit (TCC) in Program Administration;

(v) Technical Certificate of Credit (TCC) in School Age and Youth Care;

(vi) Technical College Diploma (TCD) in Early Childhood Education or Child Development;

(vii) Associate's degree in Early Childhood Education or Child Development (AA, AAS, AAT);

(viii) Paraprofessional Certificate issued by the Georgia Professional Standards Commission;

(ix) Twenty-five (25) quarter hours or fifteen (15) semester hours from an accredited college or university in Early Childhood Education or Child Development;

(x) Bachelor's degree from an accredited college or university in a field other than Early Childhood Education or Child Development and three (3) months of qualifying child care experience;

(xi) Bachelor's degree from an accredited college or university in Early Childhood Education or Child Development;

(xii) Master's degree from an accredited college or university in Early Childhood Education or Child Development.

3. If the newly hired lead teacher does not possess one of the educational and qualifying child care experience requirements listed in 591-1-1-.31(2)(b)2.(i) through (xii), the Center may hire this individual as lead teacher if the following requirements are met:

(i) The lead teacher enrolls in a program of study to obtain one of the educational credentials and qualifying experience requirements listed in 591-1-1-.31(2)(b)2.(i) through (xii), within six (6) months after becoming employed at the Center and completes the credential or degree within eighteen (18) months after enrollment;

(ii) The Center prepares a written plan outlining the newly hired lead teacher's professional development in obtaining one of the credentials or degrees listed in 591-1-1-.31(2)(b)2.(i) through (xii). Such plan must include the following information:

(I) Individual's identifying information (name, address and telephone numbers);

(II) Technical college, university or school where enrolled (name, address and telephone number) or Department-approved trainer providing credential coursework (name, address and telephone number);

(III) Credential or degree individual is seeking;

(IV) Content area of credential or degree;

(V) Anticipated date for completion of credential or degree;

(VI) Names and numbers of courses to be completed during the current year and ongoing updates of the names and numbers of courses to be completed for the following year(s);

(VII) Documentation of course work successfully completed throughout process (i.e., completion of quarter, semester or component of course work); and

(VIII) A copy of the credential or degree awarded by the technical college, university, school or Department-approved trainer for specified credential upon completion.

(iii) This professional development plan must be maintained in the lead teacher's file, and such plan shall be available for inspection and provided to Department staff upon request.

4. Have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children if the caregiver is to be counted as part of the fifty percent (50%) of the child care Staff with the required current evidence of CPR and first aid training;

5. Participate in the orientation and training required by these rules;

6. Must be able to perform adequately the job duties of providing for the care and supervision of the children enrolled in the Center in accordance with these rules;

7. Never have been shown by credible evidence, e.g., a court or jury, a department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the teacher/lead caregiver or Staff shall provide this statement to the Department.

8. Have a Satisfactory Records Check Determination as defined in these rules; and

9. Not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current License Holder, Permit Holder or commission holder.

(c) Required Records. A copy and/or written verification of the credential or degree awarded to the lead teacher listed in 591-1-1-.31(2)(b)32.(i) through (xii) shall be maintained by the Center in the lead teacher's file, and such documentation shall be available for inspection and provided to Department staff upon request.

(3) Caregivers/Aides for a Center with Licensed Capacity of Nineteen (19) or More Children.

(a) A Center with a licensed capacity of nineteen (19) or more children may employ caregivers/aides to assist the teacher/lead caregiver in the care of children in any group within the Center. No caregiver/aide who is 16 or 17 years of age shall be solely responsible for children.

(b) Qualifications of Caregivers/Aides for a Center with Licensed Capacity of Nineteen (19) or More Children.

1. Be at least sixteen (16) years of age;

2. Have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children if the caregiver is to be counted as part of the fifty percent (50%) of the child care Staff with the required current evidence of CPR and first aid training;

3. Participate in the orientation and training required by these rules;

4. Must be able to perform adequately the job duties of providing for the care and supervision of the children enrolled in the Center in accordance with these rules;

5. Never have been shown by credible evidence, e.g., a court or jury, a department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the caregiver/aide or Staff shall provide this statement to the Department.

6. Have a Satisfactory Records Check Determination if seventeen (17) years of age or older; and

7. Not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current License Holder, Permit Holder or commission holder.

(4) Caregivers/Aides for a Center with Licensed Capacity of Eighteen (18) or Fewer Children.

(a) A Center with a licensed capacity of eighteen (18) or fewer children may employ caregivers/aides to assist the Director in the care of children in any group within the Center.

(b) Qualifications of Caregivers/Aides for a Center with Licensed Capacity of Eighteen (18) or Fewer Children.

1. Be at least eighteen (18) years of age;

2. Have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children if no other full-time staff member is present on the premises with the required training;

3. Participate in the orientation and training required by these rules;

4. Must be able to perform adequately the job duties of providing for the care and supervision of the children enrolled in the Center in accordance with these rules;

5. Never have been shown by credible evidence, e.g., a court or jury, a department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the caregiver/aide or Staff shall provide this statement to the Department;

6. Have a Satisfactory Records Check Determination if seventeen (17) years of age or older;

7. Not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current License Holder, Permit Holder or commission holder; and

8. Have either a high school diploma or general education diploma (GED) or three (3) months qualifying child care experience as determined by the Department.

(5) Provisional Employees. The Center may hire Provisional Employees. All Provisional Employees:

(a) Must be at least seventeen (17) years of age;

(b) Must be informed of the rules for Child Care Learning Centers and the Center's policies and procedures for the age group for which they will be providing care;

(c) Must be informed of the Center's policies and procedures necessary to the proper performance of their job duties in compliance with the rules for Child Care Learning Centers;

(d) Must have current evidence of successful completion of a biennial training program in cardiopulmonary resuscitation (CPR) and a triennial training program in first aid provided by certified or licensed health care professionals and which covers the provision of emergency care to infants and children if the caregiver is to be counted as part of the fifty percent (50%) of the child care Staff with the required current evidence of CPR and first aid training;

(e) Must participate in the orientation and training required by these rules;

(f) Must be able to perform adequately the job duties of providing for the care and supervision of the children enrolled in the Center in accordance with these rules;

(g) Must never have been shown by credible evidence, e.g., a court or jury, a department investigation or other reliable evidence to have abused, neglected or deprived a child or adult or to have subjected any person to serious injury as a result of intentional or grossly negligent misconduct. The Department may request an oral or written statement to this effect at the time of application or at any other time. Upon said request, the Provisional Employee shall provide this statement to the Department;

(h) Must have a satisfactory Preliminary Criminal Records Check Determination as determined by the Center based on Georgia Crime Information Center (GCIC) information obtained only from local law enforcement that was issued by the law enforcement agency within the immediate preceding 10 days of the hire date on file;

(i) Must not have made any material false statements concerning qualifications requirements either to the Department or to the proposed or current License Holder or commission holder;

(j) May be hired for one period of provisional employment for up to 21 consecutive calendar days. This 21 day provisional employment period may be extended until the Department issues a Records Check Determination only if the individual:

1. Submitted for a Fingerprint Records Check Determination by the Department within the 21 calendar days of provisional employment; and
2. Submitted a Fingerprint Records Check Application to the Department within the 21 calendar days of provisional employment; and
3. If the potential Employee is a Student-in-Training, evidence of current enrollment in an early education curriculum through a high school recognized by the Department of Education or an accredited school of higher education; and

(k) May be hired as a permanent Employee by the Center only if the individual receives a satisfactory Fingerprint Records Check Determination by the Department and meets all other qualification requirements in these rules.

(6) Independent Contractors. A Center may have an independent contractor to offer consistent supplemental educational or physical activities for children in care.

(a) Such an independent contractor is an Employee of the Center for the purpose of these rules and must have a satisfactory Fingerprint Records Check Determination.

(b) Such an independent contractor is exempted from annual training and first-aid/CPR training requirements.

(c) Any independent contractor that does not offer consistent supplemental educational or physical activities for any child in care cannot be solely responsible for any child other than their own and must be under continuous direct supervision of a Director, Employee or Provisional Employee while in the presence of children other than their own.

(7) Parents. The Center may have Parents occasionally assist in a classroom, chaperone or accompany a group of children from the Center on a field trip.

(a) A Parent that is this type of occasional assistant is not required to obtain a criminal records check determination; however, an Employee that is also a Parent of a child in care at the Center is considered an Employee for purposes of these rules and must have a satisfactory Fingerprint Records Check Determination.

(b) No Parent shall be solely responsible for children other than their own and must be under continuous direct supervision of a Center Employee while in the presence of children in care other than their own.

(8) Volunteers. The Center may have volunteers other than Parents help in a classroom, chaperone or accompany a group of children from the Center on a field trip.

(a) Volunteers age seventeen (17) and older that provide consistent services must have a satisfactory Fingerprint Records Check Determination.

(b) No volunteer shall be solely responsible for children other than their own and must be under continuous direct supervision of a Center Employee while in the presence of children other than their own.

(c) Such volunteer is exempted from annual training and first-aid/CPR training requirements.

(9) Students-in-Training. The Center may have Students-in-Training at the Center.

(a) Students-in-Training age 17 and older must have a satisfactory Fingerprint Records Check Determination.

(b) No Student-In-Training shall be solely responsible for children other than their own and must be under continuous direct supervision of a Center Employee while in the presence of children in care other than their own.

(c) Such Students-in-Training are exempted from annual training and first-aid/CPR training requirements.

(10) Staff for School-Age Centers.

(a) After-school programs serving children ages five (5) years and older (school-age) that routinely operate a maximum of four (4) hours per day, Monday through Friday, whether the School-age Center is the only licensed program at that location or operates a full day Child Care Learning Center, shall comply with the following:

(b) A School-age Center must have at least one lead teacher/caregiver who is responsible for:

1. Day-to-day programming and
2. Supervision of the assistant caregivers/aides assigned to each classroom or group of School-age Children.

(c) If there is only one lead teacher/caregiver and more than one classroom or group of School-age Children, the Director of the School-age Center shall assign an assistant caregiver/aide who is at least 18 years of age to each classroom or group of children.

(d) If there is a lead teacher/caregiver assigned to each classroom or group of children, the assistant caregiver/aide may be 16 or 17 years of age.

(11) Clerical, Housekeeping, Maintenance and Other Support Staff. The Center shall have qualified and sufficient direct-care, clerical, housekeeping, maintenance and other support staff to ensure full compliance with these rules without neglecting the supervision of the children.

(a) Other Staff That May Have Direct Contact With Children in Care. A Center may have additional staff at the Center. Any staff member that has any personal contact with any child in care must:

1. Have a Satisfactory Records Check Determination as defined in these rules; and
2. May be exempted from annual training and first-aid/CPR training requirements.

(b) Other Staff That Must Not Have Direct Contact With Children in Care. The Center may have individuals at the Center to repair and/or maintain the facility while children are in care that have no personal contact with any child in care. These individuals:

1. Must have no contact with children in care;
2. May not be required to obtain a criminal records check determination, unless they have contact with children in care; and
3. May be exempted from annual training and first-aid/CPR training requirements.

(12) Work Schedules.

Staff shall not regularly be scheduled to perform child care duties for more than twelve (12) hours within any twenty-four (24) hour period.

(13) First Aid and CPR.

At least fifty percent (50%) of the caregiver Staff shall have current evidence of first aid training and cardiopulmonary resuscitation. There must always be an Employee with current evidence of first aid training and CPR on the Center premises whenever any child is present and on any Center-sponsored field trip.

(14) Compliance with Applicable Laws and Regulations. Center Staff shall not commit any criminal act, as defined under Georgia law, in the presence of any child enrolled in the Center. Center staff shall comply with all applicable laws and regulations.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

C. Bright from the Start proposes to amend Rule 591-1-1.38 entitled “Enforcement and Penalties” in its Rules and Regulations for Child Care Learning Centers. This amendment shall include the following:

591-1-1-.38 Enforcement and ~~Penalties~~ Adverse Actions

(1) Enforcement and Adverse Actions. Under Georgia law, the Department, after considering the seriousness of the violation(s), including but not limited to the circumstances, extent and gravity of the prohibited act(s), the severity of the rule violation, the duration of non-compliance, the License Holder’s prior Licensure or history, the voluntary reporting of the violation(s) for which an Adverse Action is being imposed and the hazard(s) or potential hazard(s) to the health or safety of the public, may take any of the following actions when a Center, Permit Applicant or License Applicant violates any of the rules for Child Care Learning Centers:

- (a) Refuse to grant a License or Permit;
- (b) Administer a public reprimand;
- (c) Suspend any License or Permit;
- (d) Prohibit any License Applicant, License Holder, Permit Applicant or Permit Holder from allowing a person who previously was involved in the management or control of any program which has had its License or Permit revoked or denied within the past 12 months to be involved in the management or control of such program;
- (e) Revoke any License or Permit;
- (f) Impose a fine, not to exceed a total of \$25,000, of up to \$500 per day for each violation of the law, rule, regulation or formal order related to the initial or ongoing licensing requirement of any program. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable enforcement fine;

(g) Impose a late fee of up to \$250 for failure of a program to pay the annual License fee within 30 days of the due date;

(h) Limit or restrict any License or Permit, including but not limited to, restricting some or all services of or admissions, into a Center;

(i) Seek an injunction against an early care and education program operating without a License or Permit or in willful violation of these rules;

(j) Make application for an inspection warrant to a court of competent jurisdiction to gain entry into a Center that is believed to be subject to licensure;

(k) Order the emergency placement of a monitor or monitors in a Center at the expense of the Center; and

(l) Order the emergency closure of a Center.

(2) Adverse Actions Subject to the Compliance and Enforcement Chart. In the majority of cases when one or more rule violations are found, the Department will determine the appropriate action in accordance with the Compliance and Enforcement Chart below. A Center will receive points based on the frequency and severity of citations and will land in the corresponding box. Accordingly, Prevention, Intermediate or Closure Actions will be imposed as outlined in the Enforcement Categories, Levels and Action chart below. The Department will consider mitigating and aggravating factors to determine which action is appropriate and will have sole discretion in making this determination. The guidelines for determining the Violation History Level and Violation Class shall be posted on the Department website and updated as needed. Note that if a rule violation is not found, the chart will not be applied, and that a citation will be issued at every level other than P1.

COMPLIANCE AND ENFORCEMENT CHART

V I O L A T I O N C L A S S	Incident results in or could result in:	VIOLATION HISTORY LEVEL			
		I 0 Points	II 1-3 Points	III 4-9 Points	IV 10 + Points
C L A S S	D Extreme Harm or Risk of Harm Imminent Danger	I3-C			
	C High Harm or Risk of Harm	CI I1-I2 GS	CII I1-I3 S	CIII I2-C D	CIV I3-C D
	B Medium Harm or Risk of Harm	N/A	BII P2-P3 GS	BIII I1-I2 S	BIV I2-C D
	A Low Harm or Risk of Harm	AI P1-P2 GS	AII P1-P3 GS	AIII P2-P3 GS	AIV I1-I2 S

ENFORCEMENT CATEGORIES, LEVELS AND ACTIONS		
<u>PREVENTION ACTION CATEGORY (P)</u>	<u>INTERMEDIATE ACTION CATEGORY (I)</u> <u>(Includes Citation and Prevention Actions)</u>	<u>CLOSURE ACTION CATEGORY (C)</u> <u>(Includes Citation and Prevention and/or Intermediate Actions)</u>
<u>Prevention 1 (P1)</u>	<u>Intermediate 1 (I1)</u>	<u>Closure (C)</u>
<u>Technical Assistance</u>	<u>Fine</u>	<u>Suspension of License (More than 1 week)</u>
<u>Prevention 2 (P2)</u>	<u>Intermediate 2 (I2)</u>	<u>Revocation of License</u>
<u>Citation</u>	<u>Per Rule Fine</u>	<u>Emergency Closure</u>
<u>Prevention 3 (P3)</u>	<u>Per Day Fine</u>	
<u>Formal Notice Letter</u>	<u>Intermediate 3 (I3)</u>	
<u>Office Conference</u>	<u>Public Reprimand</u>	
	<u>Fine and Restrictions</u>	
	<u>Restricted License</u>	
	<u>Restricted License & Per Rule/Per Day Fine</u>	
	<u>Emergency Monitor & Per Rule/Per Day Fine</u>	
	<u>Short-term Suspension (Less than 1 week)</u>	

(3) Adverse Actions Not Subject to the Compliance and Enforcement Chart. In the event that any of the rule violations described below are identified, the Department will not apply the Compliance and Enforcement Chart, but will take Adverse Action as follows:

(a) The Department shall refuse to issue a License or shall otherwise restrict a License or Permit for any applicant who has had a License denied, suspended or revoked within one year of the date of the application.

(b) The Department shall refuse to issue a License or shall otherwise restrict a License for any applicant, alter ego or agent of the applicant who has transferred ownership or governing authority of a program when such transfer was made in order to avert payment of an enforcement fine, denial, revocation or suspension of such License.

(c) The Department shall refuse to issue a License upon a showing of non-compliance with rules and regulations, flagrant and continued operation of an unlicensed facility, or failure to pay the License fee.

(d) The Department shall refuse to issue a License or Permit if the applicant or the operation or management of a Center knowingly or intentionally makes or causes another to make any false statement of material information in connection with the application for a License or Permit, or in statements made, records maintained, or on documents submitted to the Department as part of an inspection, survey, or investigation.

(e) The Department shall refuse to issue a License or Permit if the applicant or Center fails to provide the Department with information pertinent to an investigation, or the initial or continued licensing of a program within the time specified by the formal notice provided by the Department.

(f) The Department shall refuse to issue a License or Permit if a Center repeatedly fails or refuses to allow the Department access to the Center for the purpose of determining whether the Center is in compliance with these rules.

(g) The Department shall refuse to issue a License or Permit if a Center knows or should reasonably know that any actual or potential Director, Employee (including Independent Contractors, Students-in-Training, and Volunteers) or Provisional Employee has a Criminal Record and allows such individual to either reside at the Center or be present at the Center while any child is present for care.

(h) The Department may revoke a License or Permit if a Center displays a multi-year pattern of failure to correct a Correctable Abuse, Dereliction or Deficiency in the operation or management of a Center within a reasonable time after having received notice from the Department.

(i) The Department shall revoke a License or Permit if a Non-correctable Abuse, Dereliction or Deficiency exists in the operation or management of the Center.

(j) The Department shall revoke a License if a Center fails to pay the annual License fee within a reasonable time after the Department provides formal notice of such fee.

(k) The Department shall revoke a License or Permit if a Center knows or should reasonably know that any actual or potential Director, Employee (including Independent Contractors, Students-in-Training, and Volunteers) or Provisional Employee has a Criminal Record and allows such individual to either reside at the Center or be present at the Center while any child is present for care.

(l) The Department shall revoke a License or Permit if a Center knowingly or intentionally violates other provisions relating to Criminal Records Checks.

(m) The Department shall revoke a License if a Center fails to pay an enforcement fine within the time specified by the formal notice provided by the Department.

(n) The Department shall revoke a License or Permit if the operation or management of a Center knowingly or intentionally makes or causes another to make any false statement of material information in connection with the application for a License or Permit, or in statements made, records maintained, or on documents submitted to the Department as part of an inspection, survey, or investigation.

(o) The Department shall revoke a License or Permit if a Center fails to provide the Department with information pertinent to an investigation, or the initial or continued licensing of a program within the time specified by the formal notice provided by the Department.

(p) The Department shall revoke a License or Permit if a Center repeatedly fails or refuses to allow the Department access to the Center for the purpose of determining whether the Center is in compliance with these rules.

(4) Rights and Responsibilities of a License Holder or Permit Holder

(a) A License Holder or Permit Holder has the right to submit a written statement within ten (10) days of the receipt of notice of the Departmental intent to impose an Adverse Action as to why the Department should not take the Adverse Action. If the licensee submits a written statement, it will be placed in the facility's state file.

(b) The imposition of any Enforcement Action by the Department shall not preclude the Department from taking any additional action authorized by law or regulation.

(c) Right to a Hearing. The Department's Enforcement Actions shall be preceded by a notice and opportunity for a hearing and shall constitute a contested case in accordance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to License or Permit revocation except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

(d) The notice of revocation, suspension or restriction of a License or Permit becomes effective thirty (30) days from the day of notice unless the License Holder or Permit Holder requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice or revocation, suspension or restriction.

(e) Payment of an enforcement fine must be made within thirty (30) days of receipt of the notice, unless otherwise specified in writing by the Department.

(f) The notice of the emergency closure of a Center becomes effective upon delivery of the order, unless otherwise provided in the order. A request for a hearing must be made in writing within 48 hours, excluding weekends and holidays, from the receipt of the emergency order.

(g) When the Department issues a revocation or emergency order that is based upon health and safety rule violations, the following actions shall be taken:

1. the Department shall both hand-deliver and send the formal notice to the Center by certified or registered mail;

2. the Center shall post the formal notice in an area that is visible to the Parents and others whose children attend the Center;

3. the Department shall provide a brief notice of revocation or emergency action to the Center; and

4. the Center shall distribute the brief notice to all Parents or persons authorized to pick up children from care for the Parents.

(h) When the Department issues a revocation or emergency order that is not based upon health and safety rule violations, the Department shall either hand-deliver or send the formal notice or both to the Center by certified or registered mail.

(i) The Department may post any notice of any Adverse Action on the Department's website.

(j) The Department may share any notice of any Adverse Action and any information pertaining thereto with any other agencies which may have an interest in the welfare of the children in care at the Center.

(k) When the Department has issued a notice of revocation or emergency order required to be posted in accordance with these rules, the Center shall ensure that the notice continues to be visible to the Parents and others throughout the pendency of the revocation or emergency action, including throughout any appeal period.

(l) When the Center transports children in care to and from the Center and Parents do not come to the Center on a regular basis, the Center shall send home copies of the brief notice of the revocation or emergency action with the children on the day that it is delivered by Department.

(m) When the Department has issued a notice of revocation or emergency order required to be posted in accordance with these rules, the Center shall post any inspection reports that are prepared by the Department during the pendency of any revocation or emergency action in an area that is readily visible to the Parents and others.

(n) A Center shall not permit the removal or obliteration of any notices of revocation, emergency action, resolution, or inspection survey report posted on the premises of the Center during the pendency of any revocation or emergency action.

No Child Care Learning Center shall operate in the state without a License or Permit. A License or Permit to operate a Center may be denied, revoked, restricted or suspended in accordance with the following:

(a) Refusal of a License or Permit. The Department shall refuse to issue any License or Permit upon a showing of:

— 1. Noncompliance with these rules which are designated in writing to the center as being related to children's health and safety; or

- ~~—2. Flagrant and continued operation of an unlicensed facility in contravention of the law; or~~
- ~~—3. Prior License or Permit denial or revocation within one (1) year of application; or~~
- ~~—4. Where the Department determines that a Permit or License applicant knows or should reasonably know that any actual or potential Director, Employee or Provisional Employee has a Criminal Record and allows such individual to either reside at the Center or be present at the Center while any child is present for care; or~~
- ~~—5. Where the Department determines that a Permit or License applicant knowingly or intentionally violates other provisions relating to Criminal Records Checks.~~

~~(b) Refusal of a License or Permit. The Department may refuse to issue a License or Permit upon a showing of:~~

- ~~—1. The applicant or the agent of the applicant denies the representative access to the Center for the purposes of determining whether a License or Permit will be granted; or~~
- ~~—2. The Director, Provisional Employees or Employees of the Center do not undergo the applicable records checks and receive Satisfactory Records Check Determinations; or~~
- ~~—3. The applicant or agent of the applicant knowingly makes any false statement of material information in connection with the License or Permit Application or change of ownership, or in the alteration or falsification of records maintained by the applicant or the agent of the applicant in connection with the application; or~~
- ~~—4. The applicant or alter ego of the applicant or agent of the applicant has transferred ownership or governing authority of a Center within one (1) year of the date of the new application when such transfer was made in order to avert denial, suspension, restriction or revocation of a License or Permit; or~~
- ~~—5. The applicant or alter ego of the applicant or persons in management or control of the Center have failed to pay a civil penalty or enforcement fine previously imposed by the Department.~~

~~(c) Revocation of a License or Permit. The Department shall revoke any License or Permit in the following instances:~~

- ~~—1. Where the Department determines that a Permit or License Holder knows or should reasonably know that any actual or potential Director, Employee or Provisional Employee has a Criminal Record and allows such individual to either reside at the Center or be present at the Center while any child is present for care; or~~
- ~~—2. Where the Department determines that a Permit Holder or License Holder knowingly or intentionally violates other provisions relating to Criminal Records Checks.~~

~~(d) Revocation of a License or Permit. The Department may revoke any License or Permit in the following instances:~~

- ~~—1. Where the Department's representative is refused access to the Center for the purpose of determining whether the Center is in compliance with these rules; or~~
- ~~—2. Where the Department determines that a non-correctable deficiency exists in the operation or management of the Center; or~~
- ~~—3. Where the Department determines that a correctable abuse, dereliction or deficiency in the operation or management of the Center has not been corrected within a reasonable time after:
 - ~~— (i) having been brought immediately to the attention of the Director of the Center by Department representative;~~
 - ~~— (ii) having been advised in writing of the deficiencies and setting a time not to exceed ten (10) working days for the filing of an acceptable Plan of Correction; and~~
 - ~~— (I) the License Holder, Permit Holder or commission holder fails to submit an acceptable Plan of Correction to the Department within the specified time limits (in determining whether a Plan of Correction is acceptable, the Department will consider the extent of the deficiencies, the history of compliance including whether the License Holder, Permit Holder or commission holder has sustained compliance with previous plans of correction and whether the correction required can be maintained over time); or~~
 - ~~— (II) the License or Permit Holder fails to follow the accepted Plan of Correction; or~~~~
- ~~—4. Where the License or Permit Holder allows a Provisional Employee with an unsatisfactory Preliminary Records Check Determination to reside in or be present at a Center while any child is present for care; or~~
- ~~—5. Where there is a flagrant abuse, dereliction or deficiency that constitutes shocking intentional misconduct; or~~

~~—6. Where the License or Permit Holder knowingly makes any false statement of material information in connection with any statement made or on any documents submitted to the Department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the Center; or~~

~~—7. Where the License or Permit Holder fails to pay a civil penalty or enforcement fine imposed by the Department after the time period for requesting an appeal of the notice of imposition of civil penalty or enforcement fine has expired and the Center has not submitted an appeal within required time frame in accordance with these rules and regulations; or~~

~~—8. Where the License or Permit Holder fails to pay a civil penalty or enforcement fine imposed by the Department after the Center has submitted a timely appeal of the notice of imposition of civil penalty or enforcement fine and the imposition of the civil penalty or enforcement fine has been affirmed in accordance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., and applicable law.~~

~~(e) Suspension of a License or Permit. The Department may suspend the License or Permit to operate a Center:~~

~~—1. Where the Director, Provisional Employees or Employees of a Center do not undergo the applicable records checks and receive satisfactory determinations; or~~

~~—2. Where the Department finds that the public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order summarily suspending the License or Permit pending proceedings for revocation or other action which proceedings shall be promptly instituted and determined.~~

~~(f) Restriction of a License or Permit. The Department may restrict or limit the holder of a regular, restricted or temporary License or a Permit from providing certain kinds of care or services to children or limiting the number and/or age of the children who may be served if the Department determines that the holder of the License or Permit either cannot comply with these rules or has not complied with these rules.~~

~~(g) Enforcement Fines. The Department may assess an enforcement fine of up to five hundred dollars (\$500) per day for each rule violation, not to exceed a total of twenty five thousand dollars (\$25,000). The Department may assess enforcement fines in accordance with the following:~~

~~—1. A fine, not exceeding five hundred dollars (\$500) per day for each rule violation, may be assessed against any License Holder, Permit Holder or commission holder who~~

~~— (i) Violates any licensing provision of O.C.G.A. § 20-1A-1 et seq. or any rule, regulation or order issued under O.C.G.A. § 20-1A-1 et seq. or any term, condition or limitation of any License, commission or Permit certificate under O.C.G.A. § 20-1A-1 et seq. thereby subjecting a child in care to injury or a life threatening situation;~~

~~— (ii) Commits any violation for which a License, Permit or commission may be revoked.~~

~~—2. If any violation is a continuing one, each day of such violation will constitute a separate violation for the purpose of computing the applicable enforcement fine.~~

~~—3. Whenever the Department proposes to subject a License Holder, Permit Holder or commission holder to the imposition of an enforcement fine, it shall notify such individual or business entity in writing. The notice shall set forth the following:~~

~~— (i) the date, facts and nature of each act or omission with which the License Holder, Permit Holder or commission holder is charged;~~

~~— (ii) the specific and particular provisions of the Official Code of Georgia Annotated section, the rule, regulation, order, License, Permit or commission certificate involved in the violation;~~

~~— (iii) each fine which the Department proposes to impose and its amount;~~

~~— (iv) that the License Holder, Permit Holder or commission holder has an opportunity to show in writing, within ten (10) days of the receipt of the notice, why such fine should not be imposed;~~

~~— (v) that the failure to pay the enforcement fine, subsequently determined by the department, if any, may result in collection through a civil action (lawsuit);~~

~~— (vi) that the License Holder, Permit Holder or commission holder also has the right to appeal the imposition of the enforcement fine pursuant to the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq. by filing a timely request for a hearing within ten (10) days of receipt of the notice.~~

~~—4. The written notice of the intention to impose an enforcement fine shall be sent by registered or certified mail by the Department to the last known address of such License Holder, Permit Holder or commission holder.~~

~~—5. The amount of the enforcement fine will be assessed in accordance with the following:~~

~~—(i) a fine of five hundred dollars (\$500) per day for each rule violation may be assessed for any violation of these rules which has resulted in a disabling or permanent injury or the death of a child;~~

~~—(ii) a fine ranging from three hundred dollars (\$300) to four hundred ninety nine dollars (\$499) per day for each rule violation may be assessed for any violation of these rules which has resulted in an injury or harm to a child but has left no disabling or permanent physical damage;~~

~~—(iii) a fine ranging from fifty dollars (\$50) to two hundred ninety nine dollars (\$299) per day for each rule violation may be assessed for any violation of these rules which demonstrates a reckless and serious disregard for the physical or mental health or safety of a child in care but which may or may not result in physical injury to a child or for any other violation of these rules for which a License, Permit or commission may be revoked.~~

~~—6. The Department will consider in assessing an enforcement fine the severity of the rule violation, the duration of non-compliance, the License Holder's, Permit Holder's or commission holder's prior licensure or history and the voluntary reporting of the violation for which the fine is being imposed on the License Holder, Permit Holder or the commission holder.~~

~~—7. The assessment of an enforcement fine will not preclude the Department from taking any additional actions authorized by law or regulation including, but not limited to, License or Permit restriction, suspension, revocation or the seeking of an injunction against the continued operation of the Center.~~

~~(h) Right to a Hearing. The Department's enforcement actions shall be preceded by a notice and opportunity for a hearing and shall constitute a contested case in accordance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., except that only thirty (30) days' notice in writing from the Commissioner's designee shall be required prior to License, Permit or commission revocation and except that the hearing held relating to such action by the Department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.~~

~~—1. In connection with the Department instituting proceedings to revoke, suspend, refuse to renew or restrict a previously issued License, Permit or commission, the Department shall provide notice sent by certified mail setting forth the facts or conduct which has warranted the Department's action. The notice shall inform the Center of the opportunity to demonstrate that the Center was in full compliance with all lawful requirements for the retention of the License, Permit or commission at the time that the facts or conduct warranting the revocation, suspension or restriction action allegedly occurred. However, this notice shall not be required in the following instances:~~

~~—(i) The Department finds that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, in which case summary suspension of the License, Permit or commission may be ordered pending proceedings for revocation or suspension or other action, which proceeding shall be promptly instituted and determined; or~~

~~—(ii) The Department's order is expressly required, by a judgment or a statute, to be made without the right to or hearing or continuance of any type.~~

~~—2. The notice of revocation, suspension or restriction of a License, Permit or commission becomes effective thirty (30) days from the day of notice unless the License Holder, Permit Holder or commission holder requests a hearing. A request for a hearing must be made in writing within ten (10) days of receipt of the notice of revocation, suspension or restriction.~~

~~(i) Notice of Hearing. If the License Holder, Permit Holder or commission holder requests a hearing, a notice of hearing shall be mailed or served personally on the Center. The notice shall contain the following:~~

~~—1. A statement of the date, time, place and nature of the hearing;~~

~~—2. A statement of the legal authority and jurisdiction under which the hearing is to be held;~~

~~—3. A reference to the particular section of the statutes and rules involved;~~

~~—4. A short and plain statement of the matters asserted. The Department may refer to any child that is the subject of a deficiency or violation in the notice by the child's initials. The name of the child so referenced will be released orally to the holder of the License, Permit or commission upon written request to the Department. If the Department is unable to state the matters in detail at the time, the notice may be limited to a statement of the issues involved. Thereafter, upon application approved by the hearing officer, a more definite and detailed statement shall be furnished; and~~

~~—5. A statement as to the right of any party to subpoena witnesses and documentary evidence through the Department.~~

- (j) Injunctive Relief. The Department may, without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of a Center without a License or Permit or the continued operation of a Center in willful violation of O.C.G.A. § 20-1A-1 et seq. or of any regulation of the Department or in violation of any other order of the board or of the Department.
- (k) Inspection Warrants. If a Department representative is denied entrance to a Child Care Learning Center which is believed to be subject to licensure, an application for an inspection warrant may be made by the Department to a court of competent jurisdiction and, if granted, used to gain entry to that Center.
- (l) Emergency Order. Notwithstanding other remedies available to the Department which may be pursued at the same time, the Commissioner or his/her designee may order the emergency placement of a monitor or monitors in a Center in accordance with the following:
- 1. The Department's rules and regulations are being violated which threaten the health, safety, or welfare of children in care and when one or more of the following conditions are present:
 - (i) The Center is operating without a License, Permit or commission; or
 - (ii) The Department has denied the License, Permit or commission or has initiated action to revoke the existing License, Permit or commission of the Center; or
 - (iii) Children are suspected of being subjected to injury or life threatening situations or the health or safety of a child or children is in danger.
 - 2. A monitor may be placed in a Center for no more than ten (10) consecutive calendar days, during which time the monitor shall observe conditions and regulatory compliance with any recommended remedial action of the department. Upon expiration of the ten (10) day period, should conditions warrant, the initial ten (10) day period may be extended for an additional ten (10) day period. The monitor shall report to the Department. The monitor shall not assume any administrative responsibility within the Center, nor shall the monitor be liable for any actions of the Center. The salary and related costs and travel and subsistence allowance as defined by Department policy of placing a monitor in a Center shall be reimbursed to the Department by the Center, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the costs associated with the monitor shall be paid by the Department.
 - 3. The emergency order shall contain the following:
 - (i) The scope of the order;
 - (ii) The reasons for the issuance of the order;
 - (iii) The effective date of the order if other than the date the order is issued;
 - (iv) The person to whom questions regarding the order are to be addressed; and
 - (v) Notice of the right to a preliminary hearing.
 - 4. Unless otherwise provided in the order, an emergency order shall become effective upon its service to the owner of the Center or any other agent, Employee, or person in charge of the Center at the time of the service of the order.
 - 5. The request for a preliminary hearing shall be made in writing within five (5) days from the time of service, excepting weekends. The request must be made to the representative of the Department designated in the order. Unless a request is made to appear in person, the preliminary hearing shall consist of an administrative review of the record, written evidence submitted by the Center affected, and a preliminary written argument in support of its contentions.
 - 6. If a request is made to appear in person at the preliminary hearing, the Center shall provide the name and address of the person or persons, if any, who will be representing the Center in the preliminary hearing.
 - 7. Upon receipt of a request for a preliminary hearing, the Department shall set and give notice of the date, time and location of the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefore but in no event later than seventy two (72) hours after such request, provided that a Center may request that such hearing be held earlier; provided, however, that in no event will a hearing be held on a weekend or holiday.
 - 8. If a personal appearance is requested, the preliminary hearing shall consist of a review of the evidence in the record, any additional evidence introduced at the hearing, and any arguments made. A recording shall be made of the hearing.
 - 9. The Department shall, where practicable, issue an immediate oral order and shall, in all instances, issue a written order within four (4) business days after the close of the hearing.

~~—10. Pending final appeal of the validity of any emergency order issued as provided for pursuant to O.C.G.A. § 20-1A-13, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner or his/her designee.~~

~~—11. The Department is not precluded from taking any other actions permitted by other laws or regulations during the time that an emergency order is in force.~~

~~(m) Criminal Penalties. The criminal penalties which may be imposed for violation of these rules are as follows:~~

~~—1. Any person who violates the provisions of O.C.G.A. § 20-1A-1 *et seq.* or who hinders, obstructs, or otherwise interferes with any representative of the Department in the discharge of that person's official duties in making inspections or in investigating complaints shall be guilty of a misdemeanor.~~

~~—2. Any person who shall make, utter, execute, or submit to the Department any oral or written representation, knowing the same to be false, for the purpose of obtaining anything of value, including any service, shall be guilty of a misdemeanor.~~

~~—3. Any person who operates an early care and education program without a currently valid License, commission, registration, Permit or exemption issued by the Department is subject to the provisions O.C.G.A. § 20-1A-10(t) which provides that such person shall be guilty of a misdemeanor and upon conviction, shall be punished by imposition of a fine of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) or imprisonment not exceeding 12 months, or both, for each offense. Each day of operation without a License, Permit commission, registration or exemption constitutes a separate criminal offense.~~

~~(n) Complaints. All complaints concerning licensed, permitted, registered, commissioned or unlicensed early care and education programs may be submitted to the Department by telephone, letter, email, facsimile, or personal conference. Complaints will be investigated by a Department representative, if appropriate. A written report of the findings of the investigation will be sent to the complainant upon request where authorized by law.~~

~~Authority: O.C.G.A. § 20-1A-1 *et seq.*~~

D. Bright from the Start proposes to repeal Rule 591-1-1.41 entitled “*Notice of Revocation or Emergency Suspension Actions*” in its *Rules and Regulations for Child Care Learning Centers*. This amendment shall include the following:

591-1-1.41 Notice of Revocation or Emergency Suspension Actions

~~(1) The Department shall provide notice of its actions to revoke the License or seek an emergency suspension of the Center’s License to operate to Parents and others who may have children in the care of the Center. This notice, together with the Department’s complaint intake phone number and website, shall be provided to Parents and others through the following methods:~~

~~—(a) The posting of the official notice of revocation or emergency suspension action and any final resolution at the Center by Department staff in an area that is visible to the Parents and others whose children attend the Center;~~

~~—(b) The posting of the official notice of the revocation or emergency suspension action any final resolution of the Department’s website; and~~

~~—(c) The distribution of Department staff of a brief notice of the initial filing of actions to revoke or suspend the Center’s License to the Parents or person authorized to pick up children from care for the Parents, who are at the Center at the time that the notice of revocation or emergency suspension is posted by the Department.~~

~~(2) In addition, the Department may share any notice of revocation or emergency suspension action and any information pertaining thereto with any other agencies which may have an interest in the welfare of the children in care at the Center.~~

Repealed.

~~Authority: O.C.G.A. § 20-1A-1 *et seq.*~~

E. Bright from the Start proposes to repeal Rule 591-1-1.42 entitled “Posting and Distribution of Notices or Revocation and Emergency Suspension Actions” in its Rules and Regulations for Child Care Learning Centers. This amendment shall include the following:

~~591-1-1.42 Posting and Distribution of Notices of Revocation and Emergency Suspension Actions~~

~~When the Department has posted a notice of the revocation and/or emergency suspension actions in the Center, the Center shall ensure that the notice at the Center continues to be visible to the Parents and others throughout the pendency of the revocation, emergency closure and or emergency suspension actions, including any appeals. Where the Center provides transportation of the children in care to and from the Center and Parents and others responsible for the care of the children do not come to the Center on a regular basis, the Center shall send home with the children on the day that it is delivered by Department staff copies of the brief notice of the revocation or emergency suspension action to the Parents or others who are responsible for the care of the children enrolled in the Center.~~

Repealed.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

F. Bright from the Start proposes to repeal Rule 591-1-1.43 entitled “Posting of Inspection Results” in its Rules and Regulations for Child Care Learning Centers. This amendment shall include the following:

~~591-1-1.43 Posting of Inspection Results~~

~~The Center shall have posted at the Center in an area that is readily visible to the Parents and others any inspection reports that are prepared by the Department during the pendency of any revocation or emergency suspension action.~~

Repealed.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

G. Bright from the Start proposes to repeal Rule 591-1-1.44 entitled “Removal of Notices and Survey Reports Prohibited” in its Rules and Regulations for Child Care Learning Centers. This amendment shall include the following:

~~591-1-1.44 Removal of Notices and Survey Reports Prohibited~~

~~It shall be a violation of these rules for the Center to permit the removal or obliteration of any notices of revocation, emergency suspension action, resolution, or inspection survey reports posted by the Department on the premises of the Center during the pendency of any revocation or emergency suspension action.~~

Repealed.

Authority: O.C.G.A. § 20-1A-1 *et seq.*

III. Public Comment on Proposed Amendments

Bright from the Start: Georgia Department of Early Care and Learning (DECAL) proposes to amend Rule Chapter 290-2-3 of the *Rules and Regulations for Family Child Care Learning Homes* and Rule Chapter 591-1-1 of the *Rules and Regulations for Child Care Learning Centers*.

DECAL proposes these changes to the aforementioned rules and regulations to incorporate a new enforcement and compliance system.

The proposed amendments and repeals have been posted to Bright from the Start's website at <http://dec.al.ga.gov/ChildCareServices/ProposedRevisions.aspx>.

The proposed changes are being considered for adoption on a permanent basis, and Bright from the Start invites interested parties to comment on them. All comments, written and verbal, will be given full consideration.

Interested parties may submit written comments by mail to 2 Martin Luther King, Jr. Drive SE, Suite 754, East Tower, Atlanta, GA 30334, by fax to (404) 656-0351 or by e-mail to CCSRuleRevisions@dec.al.ga.gov. To be considered, Bright from the Start must receive written comments on or before 5 p.m., May 11, 2016.

Interested parties who prefer to make verbal comments on the proposed rule changes may do so at a public hearing before the Board of Early Care and Learning. The public hearing will be held at 1 p.m. at 2 Martin Luther King Jr. Drive SE, East Tower 8th Floor, Oak Room, Atlanta, Georgia 30334 on Thursday, May 12, 2016. Speakers should sign in to speak before 1 p.m. If no guest speakers have arrived by 1 p.m., the Board will resume its regular meeting. If no guest speakers arrive by the end of the Board's regular business meeting, the Board will adjourn. Comments made in writing will be given the same consideration as those that are made verbally.

All interested parties are invited to attend the public hearing even if they choose not to make verbal comments regarding the rule amendment proposals.

All written comments received by 5 p.m. May 11, 2016 will be shared with the Board members of DECAL. After the Board decides to adopt or reject the proposed rule changes, an order adopting or rejecting the proposal will be posted on the department's website at www.dec.al.ga.gov.

If, due to a disability, you need this notice in an alternate format or if you plan to make verbal comments and will require special accommodations, please contact Kristie Lewis, Assistant Commissioner for Child Care Services at (404) 657-5562 at your earliest convenience, but no later than ten (10) days before the above-referenced public hearing.

This notice of proposed rulemaking is being issued pursuant to O.C.G.A. §§ 20-1A-1 *et seq.* and 50-13-4. If you have any questions about the notice, contact Kristie Lewis at the number referenced above.

We appreciate our partnership with you in meeting the early care and education needs of Georgia's children and families, and we value your expertise and experience as we refine the rules and regulations that ensure our children are healthy and safe.

Sincerely,



Amy M. Jacobs
Commissioner