

## CHAPTER 185

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**CHILDREN AND DOMESTIC MATTERS**


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**HOUSE BILL 12-1276**

BY REPRESENTATIVE(S) Duran, Summers, Fields, McCann, Casso, Hulinghorst, Massey, Swerdfeger, Vigil, Fischer, Hamner, Kefalas, Kerr A., Kerr J., Labuda, Peniston, Priola, Schafer S., Solano, Todd, Young, Tyler;  
also SENATOR(S) Newell, Aguilar, Bacon, Boyd, Foster, Heath, King K., Lundberg, Mitchell, Morse, Neville, Schwartz, Spence, White, Williams S.

**AN ACT**

**CONCERNING CHILD CARE LICENSURE WAIVERS FOR MATERIALS RELATED TO A CHILD CARE CENTER'S CURRICULUM.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** 26-6-105.7 as follows:

**26-6-105.7. Applications - materials waivers - appeals - rules.** (1) A CHILD CARE CENTER THAT IS SUBJECT TO THE LICENSING REQUIREMENTS OF THIS PART 1 IS ALSO SUBJECT TO THE PROVISIONS OF THIS SECTION.

(2) (a) THE DEPARTMENT SHALL MAKE AVAILABLE TO LICENSED CHILD CARE CENTERS AND INCLUDE WITH EVERY APPLICATION FORM FOR LICENSURE INFORMATION CONCERNING THE MANNER IN WHICH A CHILD CARE CENTER MAY APPLY FOR A WAIVER TO USE CERTAIN MATERIALS IN ITS PROGRAM AND CURRICULUM. THE WAIVER REQUEST SHALL BE INCLUDED IN A CENTER'S APPLICATION FOR LICENSURE OR, IN THE CASE OF A LICENSED CHILD CARE CENTER, MAY BE SUBMITTED AT ANY TIME.

(b) A CHILD CARE CENTER SEEKING A WAIVER FOR THE USE OF CERTAIN MATERIALS SHALL ADOPT A POLICY THAT:

(I) ENSURES THAT INSTRUCTORS IN THE CHILD CARE CENTER ARE TRAINED IN THE USE OF THE MATERIALS IN A WAY THAT PROVIDES REASONABLE SAFETY PROVISIONS FOR USE BY CHILDREN; AND

(II) REQUIRES PARENTAL NOTIFICATION OF THE USE OF THE MATERIALS IN THE

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

CHILD CARE CENTER AND THE POTENTIAL SAFETY RISKS ASSOCIATED WITH THE MATERIALS. THE POLICY SHALL REQUIRE THE CHILD CARE CENTER TO OBTAIN SIGNED PARENTAL CONSENT FORMS ACKNOWLEDGING AWARENESS OF THE RISKS IN USING THE MATERIALS IN THE CHILD CARE CENTER.

(3) IF A LICENSED CHILD CARE CENTER RECEIVES NOTICE OF A VIOLATION PURSUANT TO THIS PART 1, INFORMATION CONCERNING THE WAIVER AND APPEAL PROCESS DESCRIBED IN THIS SECTION SHALL BE INCLUDED IN THE NOTIFICATION TO THE CHILD CARE CENTER.

(4) THE STATE BOARD SHALL PROMULGATE RULES FOR THE IMPLEMENTATION OF THIS SECTION, INCLUDING:

(a) THE REQUIREMENTS FOR THE GRANTING OF A WAIVER REQUEST, WHICH REQUIREMENTS SHALL INCLUDE THAT THE DEPARTMENT MAKE A DECISION ON THE WAIVER REQUEST AND NOTIFY THE CHILD CARE CENTER OF ITS DECISION NO LATER THAN SIXTY CALENDAR DAYS AFTER RECEIPT OF THE REQUEST;

(b) THE REQUIREMENTS FOR THE DENIAL OF A WAIVER REQUEST, WHICH REQUIREMENTS SHALL INCLUDE THAT THE DEPARTMENT MAKE A DECISION ON THE WAIVER REQUEST AND NOTIFY THE CHILD CARE CENTER OF ITS DECISION NO LATER THAN SIXTY CALENDAR DAYS AFTER RECEIPT OF THE REQUEST;

(c) THE PROCESS BY WHICH A CHILD CARE CENTER MAY APPEAL A DENIAL OF A WAIVER REQUEST, WHICH PROCESS SHALL INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) THAT UPON THE RECEIPT OF A DENIAL OF A WAIVER REQUEST, A CHILD CARE CENTER HAS UP TO FORTY-FIVE CALENDAR DAYS TO APPEAL THE DENIAL DECISION TO THE DEPARTMENT;

(II) THAT THE DEPARTMENT SHALL ACT UPON THE APPEAL WITHIN FORTY-FIVE CALENDAR DAYS;

(III) THAT THE DEPARTMENT SHALL PROVIDE NOTICE OF ITS DECISION ON THE APPEAL WITHIN TEN CALENDAR DAYS AFTER ITS DECISION TO THE APPEALING CHILD CARE CENTER; AND

(IV) THAT THE APPEALING CHILD CARE CENTER HAS THE RIGHT TO MEET IN PERSON WITH DEPARTMENT PERSONNEL CONCERNING THE APPEAL, BUT THAT THE ENTIRE APPEALS PROCESS SHALL LAST NO MORE THAN ONE HUNDRED CALENDAR DAYS AFTER THE DATE OF THE NOTICE OF DENIAL OF THE WAIVER REQUEST.

(5) WHENEVER PRACTICABLE, THE DEPARTMENT SHALL USE THE SAME INSPECTOR FOR:

(a) MULTIPLE VISITS TO A SINGLE CHILD CARE CENTER SEEKING A WAIVER PURSUANT TO THIS SECTION; OR

(b) MULTIPLE VISITS TO TWO OR MORE INDIVIDUALLY LICENSED CHILD CARE CENTERS THAT ARE WHOLLY OWNED, OPERATED, AND CONTROLLED BY A COMMON OWNERSHIP GROUP.

(6) THE DEPARTMENT SHALL NOT POST A DENIAL OF A WAIVER MADE PURSUANT TO THIS SECTION ON ITS WEB SITE UNTIL THE APPEAL IS FINAL.

**SECTION 2.** In Colorado Revised Statutes, **amend** 26-6-106 (3) as follows:

**26-6-106. Standards for facilities and agencies.** (3) Any applicant or person licensed to operate a child care facility or agency under the provisions of this part 1 has the right to appeal any standard that, in his or her opinion, works an undue hardship or when, in his or her opinion, a standard has been too stringently applied by representatives of the department. The department shall designate a panel of persons representing various state and local governmental agencies with an interest in and concern for children to hear such appeal and to make recommendations to the department. THE MEMBERSHIP OF THE APPEALS REVIEW PANEL SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, A REPRESENTATIVE FROM CHILD CARE PROVIDERS, A REPRESENTATIVE FROM A LOCAL EARLY CHILDHOOD COUNCIL OR LOCAL CHILD CARE RESOURCE AND REFERRAL AGENCY, A STATE-LEVEL EARLY CHILDHOOD REPRESENTATIVE WITH EARLY CARE AND EDUCATION EXPERTISE, AND A PARENT REPRESENTATIVE. ALL MEMBERS TO THE APPEALS REVIEW PANEL SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE AND SHALL SERVE TERMS OF NO MORE THAN THREE YEARS. REPRESENTATIVES TO THE APPEALS REVIEW PANEL MAY SERVE SUCCESSIVE TERMS.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 18, 2012