

DEPARTMENT OF SOCIAL SERVICES

744 P STREET, SACRAMENTO, CALIFORNIA 95814



March 14, 2001

ALL-COUNTY LETTER NO. 01-22

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHILD CARE COORDINATORS
ALL ALTERNATIVE PAYMENT PROGRAM PROVIDERS
ALL RESOURCE AND REFERRAL AGENCIES
ALL LOCAL PLANNING COUNCILS

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order or Settlement Agreement
- Clarification Requested by One or More Counties
- Initiated by CDSS

SUBJECT: USE OF PUBLIC RECREATION PROGRAMS FOR PROVIDING CALWORKS CHILD CARE

REFERENCE: AB 1542, CHAPTER 270, STATUTES OF 1997, AB 2772, CHAPTER 902, STATUTES OF 1998

This All County Letter (ACL) clarifies the requirements about the use of public recreation programs as the child care setting chosen by parents. The policies contained in this letter apply to CalWORKs Stage One child care.

Both state and federal law protect parents' right to choose the type of child care they need. (42 USC 9858c(c)(2) and 45 CFR 98.30) Both licensed child care and child care exempt from licensure are valid parental choices of care for all clients of the CalWORKs child care program. Public recreation programs are exempt from the state's licensing requirements if they meet the requirements contained in Health and Safety Code §1596.792(g). This section of the Health and Safety Code is attached for your convenience.

If a parent elects to use a license-exempt public recreation program as the child care provider, the agency administering Stage One shall reimburse the provider if:

- The family and the provider meet other applicable program requirements regarding child care eligibility and payment;
- The program's hours of operation meet the family's needs for child care;

- The public recreation program ensures that each child's attendance is recorded for payment purposes. Sign-in and sign-out sheets may be completed by staff, parents or other designated adult(s); and
- Adult supervision is maintained at all times when children are in attendance.

It is recommended that the recreation program maintain a list of emergency contacts for use if a child becomes injured or ill.

If you have any questions about the information in this letter, please contact your Child Care Program Analyst by calling the Child Care Bureau at (916) 657-2144.

Sincerely,

*Original signed by
Jo Weber 3/14/01*

JO WEBER, Chief
Work Services and Demonstration Projects Branch

Attachment: Health and Safety Code, §1596.792

Health and Safety Code
California Child Day Care Act
Section 1596.70-1596.797 — General Provisions and Definitions

CHAPTER 3.4. CALIFORNIA CHILD DAY CARE ACT

1596.792. This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to any of the following:

- (a) Any health facility, as defined by Section 1250.
- (b) Any clinic, as defined by Section 1202.
- (c) Any community care facility, as defined by Section 1502.
- (d) Any family day care home providing care for the children of only one family in addition to the operator's own children.
- (e) Any cooperative arrangement between parents for the care of their children where no payment is involved and the arrangement meets all of the following conditions:
 - (1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible care giver with respect to all the children in the cooperative.
 - (2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.
 - (3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of that may not exceed the actual cost of the activity.
 - (4) No more than 12 children are receiving care in the same place at the same time.
- (f) Any arrangement for the receiving and care of children by a relative.
- (g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:**
 - (1) The program is operated only during hours other than normal school hours for grades K-12, inclusive, in the public school district where the program is located, or operated only during periods when students in grades K-12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:
 - (A) For under 16 hours per week.
 - (B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, where appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.
 - (2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:
 - (A) For under 16 hours per week.
 - (B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.
 - (3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year.

However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

- (h) Extended day care programs operated by public or private schools.
- (i) Any school parenting program or adult education child care program that satisfies both of the following:
 - (1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.
 - (2) Is not operated by an organization specified in Section 1596.793.
- (j) Any child day care program that operates only one day per week for no more than four hours on that one day.
- (k) Any child day care program that offers temporary child care services to parents and which satisfies both of the following:
 - (1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.
 - (2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.
- (l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:
 - (1) Is operated only during periods of the year when students in grades K-12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.
 - (2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.
- (m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.