

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2010**

No. 22

Introduced by Council Members Palma, Arroyo, Chin, Ferreras, Koppell, Mendez, Van Bramer and Jackson

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the definitions of terms that relate to the provision of information on child care services and to reporting on child care programs and to repeal certain provisions of the administrative code in relation thereto.

Be it enacted by the Council as follows:

Section 1. Section 17-920 of the administrative code of the city of New York is REPEALED.

§2. Chapter 10 of title 17 of the administrative code of the city of New York, as added by local law number 13 for the year 2005, is renumbered as chapter 13 and sections 17-914, 17-915, 17-916, 17-917 and 17-918 of the administrative code of the city of New York, as added by local law number 13 for the year 2005, are renumbered sections 17-1301, 17-1302, 17-1303, 17-1304 and 17-1305, respectively, and section 17-919 of the administrative code of the city of New York, as added by local law number 12 for the year 2005, is renumbered section 17-1306 and such sections, as renumbered, are amended to read as follows:

§ 17-1301 Definitions. a. “[Day] *Child* care service” means any service which is permitted as a [group day]*child* care service in accordance with [rules and regulations of the department]*article 47 of the New York city health code*.

b. “[Day] *Child* care service permittee” means the person to whom a permit to operate a [day] *child* care service is issued by the commissioner.

c. [“Department” means the department of health and mental hygiene of the city of New York.] “Permit” means an authorization to operate a child care service issued by the commissioner in accordance with article 47 of the New York city health code.

[d. “Permit” means an authorization to operate a day care service issued by the commissioner of the department in accordance with articles 5 and 47 of title 24 of the rules of the city of New York.]

[e]d. “Serious injury” means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

[f]e. “Summary [day] *child* care service inspection report” is a report that includes, at a minimum, the following information:

- (1) the name of the [day] *child* care service;
- (2) the name of the [day] *child* care service permittee;
- (3) the [day] *child* care service permit number and expiration date;
- (4) the address of the [day] *child* care service;
- (5) the date of the most recent inspection;
- (6) the maximum number of children authorized to be present at any one time as specified in the [day] *child* care service permit;
- (7) any violations identified by the department during inspections conducted over the past three years; and

(8) whether a permit has been ordered suspended or revoked in the past twelve months; whether a [day] *child* care service has, during the past three years, been ordered closed because its continued operation represented a danger to the health or safety of children; and the terms and conditions, if any, under which such [day] *child* care service has been allowed to reopen and is authorized to operate.

[g]f. “Violation” means a citation issued by the department which alleges that a [day] *child* care service has failed to comply with a provision of applicable law, rule or regulation.

§17-1302 Access to summary [day] *child* care service inspection reports. [Commencing on the effective date of the local law that added this chapter, following] *Following* each inspection of a [day] *child* care service, the department shall post a summary [day] *child* care service inspection report on the department's website and shall make summary [day] *child* care service inspection reports available by calling 311.

§17-1303 Posting of information on-site. Every [day] *child* care service must post a sign in a conspicuous place near its public entrance or entrances stating that the most recent summary [day] *child* care service inspection report may be accessed through the website of the department or by calling 311. The sign, whose form and content shall be provided or approved by the department, shall be printed in clear and legible type, in such a manner as to be readily visible to parents or other persons entering the [day] *child* care service and shall provide instructions on how to gain access to the summary [day] *child* care service inspection reports through the department's website.

§17-1304 Denial of permit. a. Every applicant for a new or renewal permit to operate a [day] *child* care service shall disclose whether a serious injury or the death of a

child in its care, or the care of any of its owners, directors, employees, volunteers or agents, has occurred. Every such permit applicant shall further disclose any civil or criminal court verdicts holding that the applicant, or any of its owners, directors, employees, volunteers or agents, was responsible for such serious injury or death of a child, or administrative agency decisions holding or finding that there is credible evidence that the applicant, or any of its owners, directors, employees, volunteers or agents, was responsible for such serious injury or death of a child, and whether any legal proceeding involving the serious injury or death of a child is pending against the applicant, or any of its owners, directors, employees, volunteers or agents. The department shall deny such a permit unless, on the basis of the application and other papers submitted, including the information provided pursuant to this section, and on the basis of department or [City] *city* investigation, if any, it is satisfied that the provisions of the New York [City] *city* health code and other applicable law will be met. The death of a child or the occurrence of more than one incident resulting in a serious injury to a child or children in the care of an applicant or permittee shall create a presumption in any proceeding brought by the department to deny or revoke such a permit of the inability of the applicant or permittee to comply with the provisions of said code or other applicable law. Nothing herein shall otherwise limit the department's authority to deny the issuance or renewal of a permit or to revoke a permit.

b. To the extent permissible by law, where the department has received written notification that a person with responsibility for oversight and direction of a [day] *child* care service has a felony conviction at any time for a sex offense, crime against a child, or a crime involving violence, or a felony conviction within the past five years for a drug-

related offense, the department shall, when consistent with article twenty-three-A of the correction law, deny the application for a permit to operate such [day] *child* care service.

§17-1305 Notification of authorities. The department shall report to an appropriate state agency any serious injury or death of a child in [day] *child* care services which has been reported to the department in accordance with applicable law, rules and regulations. Such report shall include the name of the [day] *child* care service and the [day] *child* care service permittee of any [day]*child* care service in which a serious injury or death of a child has occurred.

§17-1306 Distribution of information to referral agencies. a. Definitions. 1. “Child [day] care program” means any program that provides child day care as defined in section 390 of the New York state social services law, *including family day care home, group family day care home and school age child care as defined in section 390 of the New York state social services law*, or [day] *child* care services [as defined in article 47 of title 24 of the rules of the city of New York].

2. “Referral agency” means the administration for children's services, the department of social services/human resources administration or any state-funded child care resource and referral agency operating in New York [City] *city*.

b. To the extent permissible under law, the department shall promptly make available to referral agencies information regarding any child [day] care program for which the department is aware of a current suspension of its license, registration or permit or that it has had its license, registration or permit terminated.

c. The department shall request that referral agencies advise parents to seek additional information regarding any program to which a referral is made by consulting

the department's website or by calling 311.

d. [Within six months of the effective date of the local law that added this section, the]The department shall publish an informational pamphlet which shall, at a minimum, do the following:

1. Describe the government authorities responsible for regulating child [day] care programs, along with contact information for persons to use if they have questions or complaints about child [day] care programs.

2. Describe key rules or regulations relating to child [day] care *programs*, including mandated staff and adult/child ratios, maximum capacity and health and safety standards.

3. Describe the inspection process and the registration, licensing and permitting processes for child [day] care programs.

4. Advise parents seeking child [day] care *programs* to ask child [day] care program providers to see the program's current license, registration or permit and not to enroll a child in any program that does not have a current registration, license or permit or has a current suspension of its registration, license or permit.

The informational pamphlet required by this section shall be translated into all covered languages as defined in § 8-1002 of the administrative code of the city of New York. Copies of the pamphlet shall be provided to all referral agencies.

§3. Chapter 13 of title 17 of the administrative code of the city of New York, as renumbered by section two of this local law, is amended by adding a new section 17-1307 to read as follows:

§17-1307 Reports regarding child care citywide. a. Forty-five days after the end

of the first full calendar quarter following the effective date of the local law that added this section and forty-five days after the end of each succeeding calendar quarter thereafter, the department shall furnish to the speaker of the city council a report regarding child care programs in New York city that includes, at a minimum, the following information concerning child care services, and to the extent that the department has access to such information, the following information concerning state-regulated family and group family day care homes and school-age child care programs:

1. number of programs currently holding a valid license, registration or permit issued under state or local law or regulations, disaggregated by borough and by type of program;

2. number of inspections of such child care programs conducted, disaggregated by borough and by the type of program inspected;

3. percentage of renewal applications that were not processed by the expiration date of the license, registration or permit being renewed, disaggregated by the type of child care program;

4. percentage of new applications for a license, registration or permit to operate a state-regulated child care program that resulted in a license or registration, disaggregated by the type of child care program;

5. percentage of new applications for licenses to operate a child care service that resulted in a license, registration or permit;

6. number of child care program slots created, disaggregated by type of child care program;

7. number of complaints received regarding child care programs operating with a

license, registration or permit, disaggregated by the type of child care program and borough in which the child care program that is the subject of the complaint is located;

8. number of complaints received regarding child care programs operating without a license, registration or permit, disaggregated by the borough in which the child care program that is the subject of the complaint is located;

9. percentage of state-licensed or registered child care programs cited for having violations, disaggregated by borough and by the type of child care program;

10. total number of initial inspections of child care services and the percentage of child care services that required one or more compliance inspections;

11. number of child care program licenses, registrations or permits revoked, disaggregated by type of child care program;

12. number of child care program licenses, registrations or permits suspended, disaggregated by the type of child care program;

13. number of cease and desist orders issued, disaggregated by the type of state-licensed or registered child care program;

14. number of early childhood consultants employed in the department's bureau of child care as of the close of business on the final day of the reporting period;

15. number of early childhood consultant vacancies in the department's bureau of child care as of the close of business on the final day of the reporting period;

16. number of public health sanitarians employed in the department's bureau of child care as of the close of business on the final day of the reporting period; and

17. number of public health sanitarian vacancies in the department's bureau of child care as of the close of business on the final day of the reporting period.

b. Within forty-five days after the end of each calendar year, the department shall publish and make available on its website an annual report containing the information set forth in subdivision a of this section for the prior calendar year.

§4. This local law shall take effect ninety days after its enactment into law, provided that section 17-1307 of the administrative code of the city of New York, as added by section three of this local law, shall expire and be deemed repealed four years after it shall have become a law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council onMay 25, 2010..... and approved by the Mayor onJune 1, 2010.....

MICHAEL M. McSWEENEY, City Clerk Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 22 of 2010, Council Int. No. 226-A) contains the correct text and was passed by the New York City Council on May 25, 2010, approved by the Mayor on June 1, 2010 and returned to the City Clerk on June 1, 2010.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

