

MAY 7, 1991

Evaluation of State or Local Licensing and Approval

Regional Directors
Child Nutrition Programs
All Regions

We recently received an inquiry regarding the appropriate interpretation of that the portion of Section 226.6(d)(3) of the Child and Adult Care Food Program (CACFP) regulations that reads “Licensing or approval is not available when (i) no Federal, State or local licensing/approval standards have been established for child care centers, outside-school-hours care centers, or day care homes; or (ii) no mechanism exists to determine compliance with licensing approval standards”. Underlying the inquiry is the issue of the responsibility of State agencies to evaluate State and local licensing and approval procedures in the CACFP. The purpose of this memo is to provide guidance for evaluating such licensing and approval procedures.

Under current law and regulations, State agencies are responsible for ensuring that child care centers and day care homes meet State or local licensing or approval criteria. For CACFP purposes, licensing or approval is the process under which a duly authorized governmental entity establishes the criteria under which formal care of children (and adults, where appropriate) may be carried out within a given political jurisdiction. Approval may also be referred to as registration, certification, endorsement, or some other similar name. If licensing or approval is not available (i.e., State and or local officials confirm that such standards do not exist), each State agency must establish alternate approval procedures to review information submitted by institutions for centers (children only) or for homes in order to establish eligibility for the Program.

As a general rule, the Agency views licensing and approval of facilities and caregivers as exclusively within the purview of State and local governments and believes that CACFP administrators should only be involved in the establishment and monitoring of licensing or approval to the extent required under the statute (e.g., the administration of alternate approval procedures). This is consistent with the position that the CACFP is primarily a nutrition/food assistance program not responsible for the overall quality of child care. In spite of that, however, implicit in Section 226.6(d)(3) and elsewhere is a responsibility that State agencies make determinations as to whether existing licensing or approval procedures contain standards against which some measurement may be made and whether mechanisms exist to determine compliance with licensing/approval standards. In exercising that responsibility, State agencies should be guided by the following.

Essentially, licensing and approval is a process under which criteria are established and compliance with those criteria evaluated. We have consistently held that the number and suitability of these criteria are determined by State and/or local officials, as is the appropriate method monitoring compliance with them. State or local licensing or approval requirements define what is an acceptable care environment pursuant to contemporary State or local standards. Licensing/approval requirements will entail submission of only such basic information as name

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and address would be acceptable. With regard to compliance with local or State standards, provided for in Section 226.6(d)(3), licensing or approval procedures must provide for evaluation of a facility against established standards. This evaluation may range from onsite reviews of facilities by licensing/approval officials to a review of a self-certification checklist submitted by a facility operator as to compliance with specific standards as established State and local licensing/approval officials.

If you have any questions with regard to the above, please feel free to contact Jim O'Donnell or Bob Eadie on 756-3620.

/ORIGINAL SIGNED/

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