



CAL FIRE - OFFICE OF THE STATE FIRE MARSHAL

Information Bulletin 24-012

Updated

Originally Issued: October 15, 2024

Child Care Centers - Occupancy Classification and Use

Updated October 31, 2024:

The Health and Safety Code (HSC) Section [13235](#) requires a fire clearance pre-inspection to be conducted by the local enforcing agency. However, the reference to this agency is incorrectly mentioned as Section [13244](#). The correct references should be HSC [13145](#) and [13146](#).

[Assembly Bill \(AB\) 176](#) (Education Finance: Education Omnibus Trailer Bill) was signed into law on September 30, 2024. The amendments to Health and Safety Code (HSC) Sections [1596.809](#) (Administration of Child Day Care Licensing) and HSC [13235](#) (Fire Safety Inspections of Care Facilities) shall be effective immediately. They shall remain operative until January 1, 2027, or until the Office of the State Fire Marshal adopts new regulations pertaining to occupancy standards for day care centers (HSC [1596.76](#)).

CAL FIRE—The Office of the State Fire Marshal (OSFM) provides this Information Bulletin to notify stakeholders of law changes impacting new and existing licensed Child Care Centers. AB 176 only applies to licensed daycare centers, not licensed family Child Care Homes.

For the purposes discussed in this Information Bulletin, "Day Care" and "Child Care" centers can be considered equivalent.

New license applicants seeking a fire clearance (Fire Safety Inspection) to operate a Child Care Center and existing licensees seeking an updated fire safety inspection due to operational changes (such as increased capacity, change in ownership, or name change) will not be subject to the regulations for use and occupancy specified under the 2022 edition of Title 24 Part 2 California Building Code, Chapter 3 which went into effect on January 1, 2023.

This change in occupancy classification is retroactive; any fire safety inspection on or after January 1, 2023, is subject to the regulations for use and occupancy specified under the 2019 edition of Title 24, Part 2 of California Building Code, Chapter 3, as they existed on December 31, 2022.

2022 Title 24, Part 9, California Fire Code, Chapter 2 shall not be considered when evaluating the occupancy classification for Child Care Centers.



2019 California Building Code (CBC) – Chapter 3

305.2 Group E, day care facilities: This group includes buildings and structures or portions occupied by more than six children 2 years of age and older who receive educational, supervision, or personal care services for fewer than 24 hours per day. (2019 CBC 305.2)

Exception [SFM]: A Day-care facility not otherwise classified as a Group R-3 occupancy, where occupants are not capable of responding to an emergency without physical assistance from the staff, shall be classified as Group I-4. (2019 CBC 305.2)

305.2.1 Within places of religious worship. Rooms and spaces within places of religious worship providing such day care during religious functions shall be classified as part of the primary occupancy where not licensed for day-care purposes by the Department of Social Services. (2019 CBC 305.2.1)

305.2.2 Five or Fewer children. A facility having five or fewer children receiving such day care shall be classified as part of the primary occupancy.

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308.5 Group I-4, day care facilities: Institutional Group I-4 occupancy shall include buildings and structures occupied by more than six clients of any age who receive custodial care for fewer than 24 hours per day by persons other than parents or guardians, relatives by blood, marriage or adoption, and in a place other than the home of the clients cared for. This group shall include, but not limited to, the following: (2019 CBC 308.5)

Adult day care

Child day care

308.5.1 Classification as Group E. A child day care facility that provides care for more than six but not more than 100 children under 2 years of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E. (2019 CBC 308.5.1)

308.5.1.1 Special provisions. See Section 452.1.4 for daycare located above or below the first story. (2019 CBC 308.5.1.1)

308.5.2 Within a place of religious worship. Rooms and spaces within places of religious worship providing such care during religious functions shall be licensed by the California State Department of Health Services as required by Health and Safety Code Division 2 Chapter 3.5. (2019 CBC 308.5.2)

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Summary of Child Care Center Classifications

Type of Care or service less than 24 hours	Age and Capability of Occupants	Types of Facilities	1-6 occupants	More than 6 occupants
Educational, supervisory, or personal care services	2 years or older through 12 th grade	Day Care /Child Care centers	Same as primary Occupancy <i>see footnote a</i> (Sec. 305.2.1, 305.2.2)	Group E <i>see footnote b</i> (Sec. 305.2)
Custodial care – As defined in the CBC	Any age where incapable of self-preservation	Day Care/Child Care centers	Same as primary Occupancy <i>see footnote a</i> (Sec. 308.5.2)	Group I-4 or Group E, <i>see footnote b</i> (Sec. 308.5.1)

- a. Rooms or spaces within places of worship which are usually Group A-3, or when there is six or fewer are classified as part of the primary occupancy.
- b. Floors in day care facilities where more than six but no more than 100 infants and toddlers (i.e., children 2 years or younger in age) can be classified as Group E, provided rooms used as such are on the level of exit discharge and have an exit door directly to the exterior. (2019 CBC 308.5.1)

STD. 850 Fire Safety Inspection Request:

2022 CBC Chapter 1, Section 1.11.4.4 Fire clearance pre-inspection.

Pursuant to Health and Safety Code Section [13235](#), Fire Clearance Pre-inspection, fee, upon receipt of a request from a prospective licensee of a ... child day care facility, as defined in Section [1596.750](#), the local fire enforcing agency, ..., or State Fire Marshal, whichever has primary jurisdiction, shall conduct a pre-inspection of the facility prior to the final fire clearance approval. At the time of the pre-inspection, the primary fire enforcing agency shall price consultation and interpretation of the fire safety regulations and shall notify the prospective licensee of the facility in writing of the specific fire safety regulations which shall be enforced in order to obtain fire clearance approval. A fee equal to, but not exceeding, the actual cost of the pre-inspection services may be charged for the pre-inspection of a facility.

ADDITIONAL INFORMATION/RESOURCES

- California Building Standards Commission: [BSC Webpage](#)
- Title 24 California Building Code:
 - [2022 California Building Code, Title 24](#)
 - [2019 California Building Code, Title 24](#)



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[2025 California Building Code Rulemaking](#)

To align with the requirements of AB 176, the OSFM has proposed to amend the 2025 California Building Code re-establishing the provisions for child-care facilities from the 2019 California Building Code with additional editorial corrections. In the coming months, the OSFM will establish a workgroup to evaluate current regulations and may recommend additional changes for future rule-making cycles.

For Questions and Additional Information:

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