



CDSS

JOHN A. WAGNER  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



ARNOLD SCHWARZENEGGER  
GOVERNOR

July 7, 2010

Ms. Susan Lapsley, Director  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814

Dear Director Lapsley:

SUBJECT: CTU 2010- 0211-01

On February 11, 2010 the Office of Administrative Law (OAL) received a petition from Mr. Charles Thacker alleging the Department of Social Services (Department) has attempted to enforce underground regulations regarding criminal record clearances for individuals working in a licensed child day care center.

On April 9, 2010, OAL accepted the petition for consideration limited to two issues:

1. Whether requiring every employee on site to already have their name and background clearances associated with the center is an underground regulation;
2. Whether the requirement that any employee who doesn't have a criminal record clearance associated with each facility must be discharged immediately is an underground regulation.

The Department is hereby submitting a certification pursuant to the California Code of Regulations, Title 1, section 280 (enclosed as EXHIBIT A) that it will not issue, use, enforce, or attempt to enforce the alleged underground regulation stated in issue #2 requiring an employee be "discharged immediately". Also enclosed is proof (EXHIBIT B) that the certification has been served on the petitioner.

Upon your receipt of the enclosed, any action of OAL in connection with the petition regarding issue #2 shall be suspended.

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 ADMINISTRATIVE LAW  
 DEBRA BOWEN  
 SECRETARY OF STATE

The Department does not withdraw its response as submitted on June 7, 2010 to the petition with regard to issue #1. The Department issued a citation for a deficiency and assessed a civil penalty on petitioner's licensed child day care facility pursuant to Health and Safety Code section 1596.871 and the California Code of Regulations, Title 22, section 101170 and did not use, enforce, or attempted to enforce an underground regulation in requiring the employees on site to already have their name and background clearances associated with the center.

Any action by OAL in connection with the petition regarding issue #1 is therefore not suspended and shall be the subject of a determination by OAL, deadline date August 23, 2010.

Sincerely,



PATRICIA A. BARON  
Senior Staff Counsel  
Department of Social Services

c: Mr. Charles Thacker  
Elizabeth Heidig, Staff Counsel OAL