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CALFIRE / Office of the State Fire Marshal
Code Development and Analysis Division
Crystal Sujeski, Division Chief

California Building Standards Commission
Public Comments Division

Re: *Public Comments to Proposed Action to Building Standards of the Office of the State Fire Marshal Regarding the 2025 California Building and Fire Codes, California Code of Regulations, Title 24, Part 2 (SFM 01/25) and Part 9 (SFM 03/25)*

The California Department of Social Services (CDSS) appreciates the opportunity to comment on the Office of the State Fire Marshal's (SFM) proposed Title 24 regulations to improve fire safety and clarify fire clearance requirements for licensed child care facilities. We value the SFM's expertise and guidance in ensuring fire safety throughout California and cooperative efforts to address concerns, including the potential impact on child care facilities, while preserving appropriate fire and safety standards for building occupants and child care facilities.

CDSS respectfully offers the following general remarks and technical comments as part of the rulemaking cycle for the California Code of Regulations, Title 24, Part 2 and Part 9.

General Comments

CDSS recommends the following general principles for revising or interpreting, where appropriate, the occupancy and use regulations pertaining to child care facilities:

1. Provide plain and easy to follow language in the regulations and avoid use of layered exceptions and repetition of the same rules across different sections. This will enhance clarity, usability, and consistent application of the regulations by local fire authorities. The regulations should clearly identify the relevant occupancy classifications for child care facilities (e.g., Group E, Group I-4 for child care centers (CCC) and Group R for family child care homes (FCCHs)),

along with a description of and reference to the applicable requirements for that occupancy classification (e.g., Group I-4 and the requirement for automatic fire sprinklers), with each provision citing to other associated sections under the regulations.

2. Revise the regulations for better transparency and consistency between the building code and fire code requirements and their corresponding parts and chapters, as they pertain to child care facilities.
3. Review the regulations thoroughly to determine other corresponding changes resulting from the proposed changes to the definitions of child care and adult day care and the potential impact of using the revised terminology.
4. Publish information bulletins or code interpretations to clarify regulatory requirements for common occupancy classifications and address common issues that licensees and local fire authorities encounter during the fire clearance approval process, both for new and existing child care facilities. For example, specifying the events that require an existing licensee to seek a new fire clearance rather than an update.

Technical Comments

The questions and comments provided below are specific to the following proposed changes:

- 45-Day Express Terms for Proposed Building Standards of the State Fire Marshal regarding the 2025 California Building Code, California Code of Regulations, Title 24, Part 2 (SFM 01/25)
- 45-Day Express Terms for Proposed Building Standards of the State Fire Marshal regarding the 2025 California Fire Code, California Code of Regulations, Title 24, Part 9 (SFM 03/25)

PART 2 & PART 9- ITEM 1

Chapter 2 Definitions, Section 202 General definitions

[SFM proposes to amend model language, modify existing amendments, and propose new definitions.]

SUB-ITEM 1-2

Child-Care; Child Care Center; Child-Care Home, Family; Child-Care Home, Large Family; Child-Care Home, Small Family; Day-Care, Adult

[SFM proposes to modify existing amendments to align Title 24 and Title 22.]

CHILD-CARE. For the purposes of these regulations, means the care of children during any period of a 24-hour day where permanent sleeping accommodations are not provided. The time-period shall not be more than 24 hours.

Note: “Child care” shall not be construed to preclude the use of cots or mats for napping purposes, provided all employees, attendants and staff personnel are awake and on duty in the area where napping occurs.

CHILD-CARE CENTER. Any facility of any capacity other than a large or small family day child-care home as defined in these regulations in which less than 24-hours-per-day nonmedical supervision is provided for children in a group setting.

DAY CHILD-CARE HOME, FAMILY. A home that regularly provides care, protection and supervision for 14 or fewer children, in the providers own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day child-care home or a small family day child-care home.

DAY CHILD-CARE HOME, LARGE FAMILY. A provider's own home which is licensed to provide day child care for periods less than 24 hours per day for nine to 14 children under specific conditions listed in Health and Safety Code 1597.465 persons, including children under the age of 10 who reside at the home. (See California Building Code Section 455)

DAY CHILD-CARE HOME, SMALL FAMILY. A home which provides family day child-care up to eight or fewer children, including children under the age of 10 years who reside at the home, in the providers own home, for periods of less than 24 hours per day. Small family day child-care homes are exempted from state fire and life safety regulations other than those state and local standards applicable to Group R-3 or R-2 occupancies. (See Health and Safety Code, Section 13143 (b).)

DAY-CARE, ADULT. For the purposes of these regulations, means the care of persons during any period of a 24-hour day where permanent sleeping accommodations are not provided. The time period shall not be more than 24 hours.

Note: "Day-care" shall not be construed to preclude the use of cots or mats for napping purposes, provided all employees, attendants and staff personnel are awake and on duty in the area where napping occurs.

➤ **CDSS Comments:**

- For occupancy purposes, consider changing verbiage in the definition of CHILD-CARE HOME, LARGE FAMILY from "nine to 14 children" to "up to 14 children." This will additionally mirror the language used for the small family child care home, which indicates care for "up to eight children."
- Consider including [Health and Safety Code 1597.44](#) to the definition of CHILD-CARE HOME, SMALL FAMILY for specific conditions that must be met to care for up to 8 children. This will mirror the HSC reference included in the definition of a large family child care home.
- The definition of CHILD-CARE HOME, SMALL FAMILY must be clarified since reference to "providers own home" was removed. Replace the beginning from "A home which provides" to "A provider's own home which is licensed to provide" which will also make it consistent with the Title 24 definition of CHILD-CARE HOME, LARGE FAMILY.

PART 2- ITEM 2

Chapter 3 Occupancy Classification and Use

[SFM proposes to modify model code and existing amendments to align Title 24 and Title 22]

SUB-ITEM 2-1

Section 305.2 Group E, child-care facilities and subsections

[SFM proposes to modify model code and existing amendments to align Title 24 and Title 22]

305.2 Group E, *child-care facilities*. This group includes buildings and structures or portions thereof occupied by more than *six* children *36 months* of age *and older* who receive educational, supervision or personal care services for fewer than 24 hours per day. *Infants and toddlers are allowed in a Group E child care when the facility complies with California Building Code Section 308.5.1*

Exception: [SFM] A building or structure that does not meet the requirements of California Building Code Section 308.5.1 or a A-child-care facility not otherwise classified a Group R-3 occupancy, where occupants are not capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group I-4. ~~Infants and toddlers are allowed in a Group E child care when the facility complies with California Building Code Section 305.2.1, 305.2.2, 305.2.3 or 308.5.1~~

PART 9- ITEM 2

Chapter 2 Definitions, Section 203 Occupancy Classification and Use

[SFM proposes to modify existing amendments to align Title 24 and Title 22 and correlate Title 24, Part 9, Section 203 with Part 2, Chapter 3]

SUB-ITEM 2-1

Section 203.4.2 Group E, child-care facilities and subsections

[SFM proposes to modify model code and existing amendments to align Title 24 and Title 22]

203.4.2 Group E, *child-care facilities*. This group includes buildings and structures or portions thereof occupied by more than *six* children *36 months* of age *and older* who receive educational, supervision or personal care services for fewer than 24 hours per day. *Infants and toddlers are allowed in a Group E child-care when the facility complies with Section 203.7.4.1.*

Exception: [SFM] A building or structure that does not meet the requirements of Section 203.7.4.1 or a A-child-care facility not otherwise classified a Group R-3 occupancy, where occupants are not capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group I-4. ~~Infants and toddlers are allowed in a Group E child care when the requirements of California Fire Code Section 203.4.2.1, 203.4.2.2, 203.4.2.3, or 203.7.4.1 are met.~~

➤ **CDSS Comments:**

- The initial clause added to the exception seems redundant as the requirement to meet Section 308.5.1 is explicitly stated in the rules for Group E. It is suggested that the proposed clause at the beginning of the stated “Exception” be removed.
- Occupants under the Group E exception are described as “*occupants... not capable of responding to an emergency situation without physical assistance...*” whereas occupants under Group I-4 are described as those receiving “*custodial care.*” This difference in terminology merits a closer review and evaluation by the SFM to ensure consistency in the standards.
- Consider changing “*six children*” to “*one or more children*” to simplify occupancy. As written, CCCs that have fewer than six children may be subject to more stringent occupancy codes.
- Recommend replacing “*when the facility complies with section...*” to “*in accordance with ...*” which will help reduce confusion and make it consistent with cross references in the code.
- A “child-care facility not otherwise classified a Group R-3 occupancy” should be evaluated to determine if R-2 occupancy (for multifamily homes) and other occupancy groups should be added.
- Any changes that are made to the sections under Part 2 should be evaluated for duplication in parallel sections under Part 9 and Title 24 regulations (e.g., aligning Sections 305.2 and 203.4.2), to ensure consistency between the building code and fire code requirements.

PART 2- SUB-ITEM 2-1

305.2.3 Six Five or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having six five or fewer children receiving such ~~day~~ child care shall be classified as a Group R-3 occupancy or shall comply with the *California Residential Code*.

PART 9- SUB-ITEM 2-1

203.4.2.3 Six Five or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having six five or fewer children receiving such ~~day~~ child care shall be classified as a Group R-3 occupancy or shall comply with the *California Residential Code*.

➤ **CDSS Comments:**

- CCCs are in commercial buildings, schools, and similar structures, not in a dwelling unit. Use of Group R-3 occupancy in this context is unclear.

PART 2- SUB-ITEM 2-2

Section 308.5 Institutional Group I-4, day care and child care facilities and subsections

[SFM proposes to modify model code and existing amendments to align Title 24 and Title 22]

308.5 Institutional Group I-4, day care and child-care facilities. Institutional Group I-4 occupancy shall include buildings and structures, and portions thereof, 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 be limited to, the following:

Adult day care

Child day care (*not classified as Group E*)

PART 9- SUB-ITEM 2-2

Section 203.7.4 Institutional Group I-4, day care and child care facilities and subsections

[SFM proposes to modify model code and existing amendments to align Title 24 and Title 22]

203.7.4 Institutional Group I-4, day care and child care facilities. Institutional Group I-4 occupancy shall include buildings and structures, and portions thereof, 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 be limited to, the following:

Adult day care

Child day care (*not classified as Group E*)

➤ **CDSS Comments:**

- Recommend that use of “*custodial care*” be evaluated for further study particularly since different terminology and standards are used in other parts of the code (e.g., see section 305.2) and for licensing purposes.
- Recommend further study to consider adding “*authorized representative*” after “*parents or guardians*” to align with child care terminology.

PART 2- SUB-ITEM 2-2

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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 classified as part of the primary occupancy where not licensed for child-care purposes by the Department of Social Services. ~~licensed by the California State Department Health Services as required by Health and Safety Code Division 2 Chapter 3.5.~~

PART 9- SUB-ITEM 2-2

...

[BG] 203.7.4.2 Within a place of religious worship. Rooms and spaces within places of religious worship providing such care during religious functions shall be classified as part of the primary occupancy ~~where not licensed for child-care purposes by the Department of Social Services.~~

➤ **CDSS Comments:**

- The last clause regarding CDSS licensing is unclear (“*where not licensed for child-care purposes by the Department of Social Services*”) and it is important to clarify. It might be misconstrued in a way that conflicts with the California Child Day Care Facilities Act, which requires licensure when child care is provided as defined in the Act, unless otherwise expressly exempt under licensing laws. This issue is also presented under Section 305.2.1.

PART 2- SUB-ITEM 2-2

308.5.3 Six Five or fewer persons receiving care. A facility having six five or fewer persons receiving such child care shall be classified as part of the primary occupancy ~~custodial care shall be licensed pursuant to Health and Safety Code Division 2 Chapter 3.5 or 3.6.~~

PART 9- SUB-ITEM 2-2

[BG] 203.7.4.3 Six Five or fewer persons receiving care. A facility having six five or fewer persons receiving ~~custodial~~ such child care shall be classified as part of the primary occupancy.

➤ **CDSS Comments:**

- Because Group I-4 includes both “*day-care*” and “*child-care*” facilities, it seems that replacing “*custodial care*” with “*child care*” will limit use of this section to child care only and exclude adult care. The proposed change may adversely affect adult day care facilities.
- In light of changes to the definitions section to separate day care for adults and children’s day care, consider whether the new proposed “Day Care, Adult” should be included when referring to adult day care to avoid confusion. It is unclear how the revised definitions above will be used in other parts of the code. Further evaluation is necessary to avoid unintended consequences.

PART 2- SUB-ITEM 2-2

308.5.4 Six or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having six or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy, ~~where occupants are not capable of responding to an emergency situation without physical assistance from the staff shall be classified as a Group I-4.~~

PART 9- SUB-ITEM 2-2

[BG] 203.7.4.4 Six Five or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having ~~five~~ six or fewer persons receiving ~~custodial~~ such child care shall be classified as a Group R-3 occupancy, ~~or shall comply with the California Residential Code.~~

➤ **CDSS Comments:**

- The proposed changes seem to make section 308.5.4 inconsistent with section 203.7.4.4, as “*custodial care*” is proposed to be replaced with “*child care*” under

section 203.7.4.4. Suggest further evaluation of this inconsistency and the impact on adult day care facilities by limiting this exception to only cover child care.

- CCCs are in commercial buildings, schools, and similar structures, not in dwelling units. Use of Group R-3 occupancy in this context seems unclear.

PART 2- ITEM 6

Chapter 10 Means of Egress

SUB-ITEM 6-1

Section 1010.2.12 Delayed egress

[SFM proposes to delete model language “or heat”.]

1010.2.12 Delayed egress. Delayed egress electrical locking systems shall be permitted on doors in the means of egress serving the following occupancies in buildings that are equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 *and* an approved automatic smoke ~~or heat~~ detection system installed in accordance with Section 907.

1. Group B, F, I, M, R, S and U occupancies.
2. Group E classrooms with an occupant load of less than 50.

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PART 9- ITEM 5

Chapter 10 Means of Egress

SUB-ITEM 5-1

Section 1010.2.12 Delayed egress

[SFM proposes to delete model language “or heat”.]

1010.2.12 Delayed egress. Delayed egress locking systems shall be permitted to be installed on doors serving the following occupancies in buildings that are equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 *and* an approved automatic smoke ~~or heat~~ detection system installed in accordance with Section 907.

1. Group B, F, I, M, R, S and U occupancies.
2. Group E classrooms with an occupant load of less than 50.

...

➤ CDSS Comments:

- Since the proposed change appears to impact Group E and Group I facilities who are currently equipped with heat detection systems, there may be costs for child care providers if changes are necessary to maintain compliance. While the ISOR indicates that this change is meant to eliminate redundant requirements and simplify compliance, which are important objectives, the implementation costs and operational impacts of the proposed change are unclear.

CDSS would also like to address the following sections of Title 24 regulations as they impact the proposed changes addressed above:

- **Section 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 36 months 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.

- Under the 2019 Title 24 Code, the cap of “100 children” applied to only infants (*children under two years old*), without limiting the number of toddlers. However, this was revised to “*children under 36 months of age*” in 2022, suggesting that this cap of 100 children applies to both infants and toddlers in CCCs. It is unclear if this section will be revised per AB 176, to reinstate the 2019 requirements or if there are life and safety concerns that are being further evaluated.
- Suggest replacing “*child day care facility*” with “*child care center*” so that it is clear this provision does not apply to licensed family child care homes, making it consistent with the definition of “child care center” under the Title 24 and Title 22 regulations.

- **Section 436.1.1 Egress**

Rooms used for Group I-4 child care or adult day care on the first floor shall have one exit door directly to the exterior.

- This section was not included in the 2019 code and added in 2022. The AB 176 workgroup proposal submitted to SFM in 2025 offered the reasons for removing this requirement due to design and construction challenges, as well as creating financial hardships for CCCs and adult day cares in already existing buildings. Has this section been considered for removal or will any further changes be proposed to address stakeholder concerns?

CDSS appreciates your time and attention to the matters raised above.

For any additional questions or concerns, please contact:

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