**Section 401.40 Definitions**

"Adequate assets" means the child welfare agency has sufficient liquid assets in reserve or has other sources of income and a line of credit independent of Department contracts which would allow it to provide continuous agency operations and provide services such as staff, taxes, rent, utilities, and supplies for a period of at least 30 days.

"Administrative order of closure" means a severe administrative sanction, approved by the Director of the Department of Children and Family Services, to close immediately an unlicensed child care facility, a child care facility which is exempt from licensure, or a licensed child care facility prior to revocation of the facility's license. An administrative order of closure is issued only when continued operation of the child care facility jeopardizes the health, safety, morals, or welfare of children served by the facility.

*"Adoption services" includes any one or more of the following services performed for any type of compensation or thing of value, directly or indirectly:*

*arranging for the placement of or placing out* of *a child,*

*identifying a child for adoption,*

*matching adoptive parents with biological parents,*

*arranging or facilitating an adoption,*

*taking or acknowledging consents or surrenders for termination of parental rights for purposes of adoption, as defined in the Adoption Act,*

*performing background studies on a child or adoptive parents,*

*making determinations of the best interests of a child and the appropriateness of adoptive placement for the child, or*

*post-placement monitoring of a child prior to adoption.*

*"Adoption services" does not include the following:*

*the provision of legal services by a licensed attorney for which the attorney must be licensed as an attorney under Illinois law,*

*adoption-related services performed by public governmental entities or entities or persons performing investigations by court appointment as described in subsection A of Section 6 of the Adoption Act,*

*prospective adoptive parents operating on their own behalf,*

*the provision of general education and training on adoption-related topics, or*

*post-adoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families.* [225 ILCS 10/2.24]

*"Advertise" means communication by any public medium originating or distributed in this State, including, but not limited to, newspapers, periodicals, telephone book listings, outdoor advertising signs, radio, or television.* [225 ILCS 10/12]

"Age appropriate safety restraint" means, for a child under four years of age, a child restraint system (infant carrier, infant/toddler seat, or convertible safety seat) which meets the standards of the United States Department of Transportation designed to restrain, seat or position children. For a child four years of age or older, an age-appropriate safety restraint means a child restraint system or seat belt (lap belt or lap-shoulder belt combination).

"Authorized representative of the governing body" means the person authorized by formal action at a meeting of the Board of Directors to act on behalf of the child welfare agency and sign the license renewal application (but not the initial application for license), contracts, and other such documents, on behalf of the governing body. Such authorization shall be in writing on agency letterhead, submitted to the Department licensing worker, and signed by the president or chairperson of the Board of Directors and the secretary of the Board of Directors.

"Background check" means:

a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI), for comparison to their criminal history records, as appropriate; and

a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Illinois Sex Offender Registry.

"Chief fiscal officer" means the staff position with primary responsibility for the receipt, distribution and accounting for all financial transactions of the agency.

*"Child" means any person under 18 years of age.* (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

*"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in this Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of* the Child Care Act of 1969. [225 ILCS 10/2.05]

*"Child welfare agency" means a public or private child care facility, receiving any child or children for the purpose of placing or arranging for the placement or free care of the child or children in foster family homes, unlicensed pre-adoptive and adoptive homes, or other facilities for child care, apart from the custody of the child's or children's parents. The term "child welfare agency" includes all agencies established and maintained by a municipality or other political subdivision of the State of Illinois to protect, guard, train or care for children outside their own homes and all agencies, persons, groups of persons, associations, organizations, corporations, institutions, centers, or groups providing adoption services, but does not include any circuit court or duly appointed juvenile probation officer or youth counselor of the court, who receives and places children under an order of the court.* [225 ILCS 10/2.08]

"Complaint", for purposes of this Part, means any oral or written report made to or by the Department or supervising agency or by the public alleging a violation of licensing standards or the Child Care Act of 1969 or relating to the conduct of an agency or its staff.

"Conditional license" means a nonrenewable license for a period not to exceed six months which may be granted to a child care facility when the facility has agreed to a corrective plan to amend identified deficiencies and bring the facility into reasonable compliance with all licensing standards. Conditional licenses may be issued with the approval of the Department only where no threat to the health, safety, morals or welfare of the children served exists. Any other license held by the facility shall be revoked when the conditional license is issued.

"Corporal punishment" means hitting, spanking, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain. (National Health and Safety Performance Standards, Guidelines for Out-Of-Home Child Care Programs, American Public Health Association and American Academy of Pediatrics, 2002).

"Corrective plan" means a written plan approved by the Department's regional licensing administrator which identifies deficiencies in a child care facility's operations and which allows the facility a maximum of six months to correct the identified deficiencies and come into reasonable compliance with all applicable licensing standards.

*"Deemed compliant" means that an eligible agency,* accredited by the Council on Accreditation for Children and Family Services (COA)*, is presumed to be in compliance with requirements* of this Part*, provided that the Department has determined that current Council on Accreditation for Children and Family Services (COA) standards are at least substantially equivalent to* this Part's *requirements.* [225 ILCS 10/2.27]

"Deemed status" means the Department has approved a child welfare agency as in compliance with the requirements of this Part because the agency:

has received full accreditation status from the Council on Accreditation for Children and Family Services (2001 Standards); and

during the past four years, there have been no substantiated licensing violations that affect the health, safety, morals, or welfare of children served by the accredited agency.

*"Department" means the Illinois Department of Children and Family Services.* [225 ILCS 10/2.02]

*"Eligible agency" means a licensed child welfare agency that is currently fully accredited by the Council on Accreditation for Children and Family Services (COA) for adoption services and has had no Department substantiated licensing violations or COA accrediting violations that affect the health, safety, morals, or welfare of children served by that agency for the 4 years immediately preceding a determination of eligibility.* [225 ILCS 10/2.26]

"Excessive fees" means an amount that exceeds what is usual, reasonable and customary in the community for the delivery of adoption services in Illinois and shall take into account the full range and duration of services provided by the agency to birth parents and their children, and to adoptive parents, for expenses paid by the agency for medcial costs and whether the agency providers a program of reduced-fee placements and services and places special needs children for adopttion. Adoption service fees must be based on the costs associated with service delivery and clients may be charged only for services provided.

"Full license" means the agency is operating under a current child welfare agency license rather than a permit, a provisional license, a conditional license, or a license which has been revoked or which has expired after the agency failed to file a timely and sufficient application for license renewal.

"Governing body" means all members of the board of directors of a corporation.

*"Guardian" means the guardian of the person of a minor.* [225 ILCS 10/2.03]

"Immediate family member" means a person's spouse, son, daughter, mother, father, sibling, brother- or sister-in-law, or other legal dependent.

"Inadequate assets" means the child welfare agency has less than 30 days of operating expenses available to them in liquid assets as required by the definition of adequate assets in this Section.

"Initial application for license" means the first application for licensure as a child welfare agency submitted by the individual, corporation, or other legal entity.

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" means those individuals, corporations, or other legal entities who have applied for a license from the Department of Children and Family Services.

"Licensee" means those individuals, corporations or other legal entities who hold a license or permit issued by the Department of Children and Family Services.

"Licensing worker" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"New application for child welfare agency license" means a license is sought to operate a child welfare agency when:

the applicant has applied previously for a child welfare agency license and withdrew the license application before a decision was made on the application for license; or

the applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license; or

the applicant had been licensed previously as a child welfare agency, but the Department revoked or refused to renew the license.

"Permit" means a one-time only document issued by the Department of Children and Family Services to allow the license applicant to become eligible for an initial license. Permits may be for a maximum six month period, except that permits granted to foster family homes and day care homes are limited to a maximum of two months.

*"Petty offense" means any offense for which a sentence to a fine only is provided.* (Section 5-1-17 of the Unified Code of Corrections [730 ILCS 5/5-1-17])

"Preferential treatment" means any action that allows board members, contributors, volunteers, employees, agents, consultants, or independent contractors, or their relatives, to receive consideration with respect to the placement of a child or any matter that relates to adoption services that are different or more favorable than any other similarly situated applicants.

"Provisional license" means a license issued for a period not to exceed two years to allow a licensed child welfare agency to demonstrate the ability to operate a business in compliance with applicable standards. During the provisional license period, the Department may exercise more stringent oversight or place more stringent requirements on the child welfare agency.

*"Psychotropic medication" means medication whose use for antipsychotic, antidepressant, antimanic, antianxiety, behavioral modification or behavioral management purposes is listed in the AMA Drug Evaluations* (Drug Evaluation Subscription, American Medical Association, Vols. I-III, Summer 1993) *or Physician's Desk Reference* (Medical Economics Data Production Company, 49th Edition, 1995) *or which are administered for any of these purposes.* (Section 1-121.1 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-121.1])

"Reasonable living expenses" means expenses of the biological parents related to activities of daily living and meeting basic needs, including but not limited to lodging, food and clothing. The term does not include expenses of lost wages, gifts or education or other similar expenses of the biological parent.

"Refusal to issue license" means the formal decision of the Department to decline to issue a license to the holder of a permit.

"Refusal to renew a license" means the formal decision of the Department to decline to issue a succeeding license, although the licensee has submitted a timely and sufficient application for license renewal, to the holder of a child care facility license or permit.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children receiving care in a licensed child care facility outside the visual or auditory supervision of facility staff.

"Reputable character" means there is satisfactory evidence that the moral character of the applicant is trustworthy.

"Responsible" means trustworthy performance of expected duties in accordance with established professional standards, State and federal law, and the rules of the Department of Children and Family Services.

"Revocation" means the termination of a full license or provisional license to operate a child care facility by a formal action of the Department. License revocations shall be conducted in accordance with Section 8 or 8.1 of the Child Care Act of 1969 [225 ILCS 10/8 and 8.1].

"Risk management plan" means a document developed in accordance with Appendix D of this Part that outlines the process for identifying and analyzing loss exposures, examining alternative risk control methods, and making and carrying out decisions that will minimize the adverse effects of accidental losses.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"Surrender for adoption" means a voluntary final and irrevocable act, in writing, by a biological parent to relinquish all parental rights of a child to an agency for the purpose of placing the child for adoption.

"Suspension of license" means an action, imposed in writing, by the authorized designee of the Department that requires cessation of all adoption related activities by the adoption agency.

"Timely and sufficient application for license renewal" means the child welfare agency submitted the application for renewal of the license at least 90 days before the expiration date, the application was complete, dated, and signed by an authorized party, and the materials required by Section 401.140 were attached to the application for license renewal. License renewal applications for foster family homes or day care homes under the supervision of the child welfare agency are considered timely if the application was returned to the agency within the time frames required by the respective licensing standards 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or 89 Ill. Adm. Code 406 (Licensing Standards for Day Care Homes).

*"Unlicensed pre-adoptive and adoptive home" means any home that is not licensed by the Department and that receives a child or children for the purpose of adopting the child or children.* [225 ILCS 10/2.25]

"Valid license" means a license which has not been revoked or expired, or which would have expired except that the child welfare agency submitted a timely and sufficient application for license renewal and the Department has not yet rendered a decision on the application, and the facility has not been issued an administrative order of closure.

"Voluntary surrender of license" means that, in writing, the licensee has offered and the Department has accepted the licensee's offer to give up a valid license of his, her or its own free will. The Department is not required to accept the offer of the license and, in the Department's sole discretion, may decline to accept the license.

(Source: Amended at 30 Ill. Reg. 2699, effective February 27, 2006)