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TITLE 470 DIVISION OF FAMILY AND CHILDREN

LSA Document #03-233

To: Honorable Jerry Denbo, Co-Chairperson
Honorable Luke Kenley, Co-Chairperson
c/o Ms. Sarah Burkman
Administrative Rules Oversight Committee

From: Erin M. McQueen, Staff Attorney
Office of General Counsel
Family and Social Services Administration

Re: LSA #03-233 - Child Care Development Fund Program Child Care Provider Standards Rule

Date: May 6, 2004

Cc: Chuck Mayfield, Legislative Services Agency
Rachel McGeever, General Counsel, FSSA
Lanier DeGrella, Deputy Director, DFC/BCD
Janet Deahl, Manager, Educare, DFC/BCD

On behalf of the Family and Social Services Administration, Division of Family and Children, Bureau of Child Development, I am submitting this notice to the Administrative Rules Oversight Committee in compliance with IC 4-22-2-25, because the division has determined there is a possibility that the promulgation of the captioned rule may not be completed within one year after publication of the notice of intent to adopt a rule.

The division published its notice of intent to adopt a rule for the captioned document on September 1, 2004 (26 IR 3907). The proposed rule was published on February 1, 2004 (27 IR 1626). There was a delay in publishing the proposed rule because the division gave careful consideration to the requirements for the proposed rule and how the rule would be implemented by the program. Therefore, it took additional time to draft the proposed rule. Three public hearings were held on February 26, 2004; March 2, 2004 and March 4, 2004 in the northern, central and southern parts of the state. The written comment period was left open to March 26, 2004 to allow additional time for all interested persons to give comments on the proposed rule. The division received comments both at the public hearings and in written form. The division is still in the process of giving careful consideration to all the public comments and taking the necessary steps for program implementation. Consequently, the rule still needs to be finalized and adopted by the division.

Once the rule is adopted by the division, it has to be approved by the Family and Social Services Committee (see IC 12-8-3), a committee that only meets once a month. The committee currently have some vacancies for the committee and it is possible a monthly meeting could occur without a quorum and therefore without any action taken on an adopted rule. This would mean delayed approval until the next monthly meeting of the committee and presence of a quorum. Following approval by the FSSA committee, the rule must be submitted to the Attorney General's office. Pursuant to IC 4-22-2-32, the Attorney General has forty-five days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for rule review are outside of the agency's control. For these reasons, it is unlikely that the rule will be approved by the governor within one year of the date of publication of the notice of intent. The agency expects that the rule can be approved by the governor by December 31, 2004.

This notice setting forth the expected date of approval of LSA Document #03-233 by December 31, 2004 is being submitted in a timely manner. May 7, 2004 is the two hundred fiftieth day after publication of the notice of intent to

adopt a rule.