

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

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SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Human Services
West Virginia Department of Health and Human Resources TITLE NUMBER: 78

CITE AUTHORITY: 49-2B-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Child Care Centers Licensing

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Michael J. Lewis SSP
Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 25, 2011

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia Department of Health and Human Resources
350 Capitol Street
Charleston, WV 25301
(304) 356-4608

LEGISLATIVE RULE TITLE: _____

78-1, Child Care Centers Licensing

1. Authorizing statute(s) citation 49-2B-4

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 21, 2011

b. What other notice, including advertising, did you give of the hearing?
Publication on child care centers list serv

c. Date of Public Hearing(s) or Public Comment Period ended:
July 22, 2011 at 12 noon

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached x No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Beth Hall Chambers, Program Manager

WVDHHR

350 Capitol Street

Charleston, WV 25301

(304) 356-4608

(304) 558-8800 fax

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

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Statement of Circumstances

The rule is being revised for the following reasons:

- To be compatible to WV Code §49-2B, specifically regarding emergency plans
- To be compatible with a revision of CFR 16, Parts 1219, 1220, and 1500 in the Federal Register, Volume 75, Number 248 by the Consumer Product Safety Commission
- To correct errors
- To clarify certain requirements and update references
- To include recommendations regarding obesity prevention, specifically with nutrition and physical activity
- To incorporate recommendations made by nurse health consultants on medication and care plans

Brief Summary for Proposed Revision to Rule Amended after Public Comment Period

Significant changes include:

- Clarifying that centers must explain if liability insurance covers accidents and injuries
- Requiring that protective service record checks be conducted every five years
- Reducing the number of hours an infant/toddler mentor must be on site when one is required
- Requiring a long term substitute must meet minimum qualifications so that the he/she is not required to work under continuous supervision
- Phasing out the use of multiple bucket-seat tables
- Requiring cribs to meet federal standards and eliminating the use of playpens
- Clarifying surfacing requirements for indoor climbing equipment and reducing the amount of use zone necessary for climbing equipment in an infant/toddler area
- Strengthening language regarding the provision of active play, both indoor and outdoor, for all ages of children
- Simplifying and strengthening language regarding the use of media viewed on a screen
- Clarifying when a medical plan of care is needed
- Clarifying the storage of medication and requiring the use of benzocaine have written instruction from the health care provider

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- Strengthening language that ties infant nutrition standards to the Child and Adult Care Food Program standards while eliminating redundancy of the requirements with material referenced in the Appendix
- Requiring new diaper changing surfaces to be located in the immediate area of a hand washing sink
- Including recommendations to strengthen emergency and disaster plans, specifically regarding second relocation site and plan for reunification
- Requiring emergency and disaster evacuation plans to be filed with the county Director of the Office of Emergency Services
- Clarifying that outdoor equipment and use zone surfacing must comply with the Consumer Product Safety Commission's guidelines, eliminating specific language from the rule and deleting the related appendix

Rule Title: Child Care Centers Licensing 78-1

Type of Rule: Legislative Interpretive Procedural

Agency: WV Department of Health and Human Resources

Address: Division of Early Care and Education
350 Capitol Street, Room B-18
Charleston, WV 25301

Phone Number: 304-356-4608 Email: beth.h.chambers@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what effect this measure will have on costs and revenues of state government.

This will not have an impact on the costs and revenues of state government. It may have impact on child care centers for the cost of replacing cribs.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

Effect of Proposal	Fiscal Year		
	2011 Increase/Decrease (use "-")	2012 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services			
Current Expenses			
Repairs and Alterations			
Equipment			
Other			
2. Estimated Total Revenues	0	0	0

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Memorandum

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

This is a revision to an existing rule.

Date

6-21-2011

Agency

Department of Health and Human Resources

Authorized Representative



Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

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Amendments Made to the Rule as a Result of Public Comment

Regarding Liability Insurance

6.7 Risk management for the center shall include liability insurance.

7.1.a.4. A center provides information about its liability insurance coverage including information regarding coverage or non-coverage of accidents or injuries;

Regarding Substitutes

9.8. Substitute. The center shall ensure that:

9.8.a. A substitute has the appropriate background checks;

9.8.b. A substitute used in a position for less than two weeks does not have sole responsibility for a group of children and works under the continuous supervision of, at a minimum, an assistant teacher; and

9.8.c. A substitute filling a position for more than two weeks meets the minimum qualifications of the position for which substituting. A substitute meeting the qualifications of the position does not require continuous supervision if the position does not require it.

Regarding Cribs

13.4.e.6. Effective December 28, 2012, the use of traditional drop side cribs, and any crib manufactured prior to June 28, 2011 is prohibited unless the center obtains a certificate of compliance from the manufacturer that the crib is compliant to the current federal standards.

Regarding Trampolines

13.8. Standard trampolines are prohibited unless used as a special activity and the activity complies with sub-section 14.9 of this rule.

Regarding Screen Time

14.7.f. Children between the ages of two years and school age shall be limited to using screen media not more than 15 minutes per day, or 75 minutes per week (per child), and for educational or physical activity use only;

14.7.g. School age children shall be limited to using screen media not more than 75 minutes per week (per child) and for educational or physical activity use, except for the use of computers and other media as needed for homework;

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Regarding Benzocaine

15.4.h.7.E. Medication for teething pain that contains benzocaine shall not be used without written instruction from the child's health care provider;

Regarding Baby Food

16.8.b. A center caring for a child twelve (12) months of age and under shall feed the child according to a plan developed in consultation with the parent and may include advice from the child's licensed health care provider. Due to the differences in development and nutritional needs of an infant, the center is not required to provide the baby food an infant not yet eating table food will receive, but must ensure that the parent is providing food that is required to meet the infant's need. The option to have parents supply the baby food must meet the requirements of sub-section 16.9 of this rule.

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COMMENT SUMMARY AND RESPONSE

INCLUDING IF AMENDMENTS WILL BE MADE

6.7 Risk management for the center shall include liability insurance which provides coverage for, but is not limited to, negligence and injuries.

Comment Summary: This regulation had 10 comments (9 identified, 1 anonymous) The following comment is a good summary of the concerns raised by all of the comments:

"I am very concerned and opposed to the language used to clarify that liability insurance must include negligence and injuries. No agency, including public schools, carries insurance to cover injuries. If a child is injured, their medical insurance would cover their medical expenses. Currently, over 90% of West Virginias children are now insured. Therefore, this requirement simply puts additional money in the hands of the insurance company for unnecessary coverage. This will cause a financial hardship on childcare centers."

Response: The revision is proposed as a result of a parent whose child was injured at a child care center having a large out-of-pocket expense for medical care due to the injury. The parent did not believe the center was negligent, but did believe that the center contributed to the injury and should be able to reimburse the parent for expenses the parent's insurance would not pay. The revision is meant to clarify that insurance coverage should cover negligence and injury. However, based upon the responses of child care centers, it is clear that this revision will increase the cost of child care for what may be a significant number of centers. This issue needs more study and further discussion among parents, providers and the regulatory authority. The Department agrees that parents need to be aware up front that medical expenses as result of accidents at a child care center may not be covered by the center's insurance policy and will include this language in the proposed language. **The Department will revise the language of the regulation.**

8.6.i.2.A. That one (1) qualified staff member to act as a mentor and resource, who has completed the minimum approved training, is present in the infant/toddler program for at least half of the operating hours daily;

Comment Summary: There was one comment in support of this change from a child care center and one comment disagreeing with the change from a professional providing infant and toddler technical assistance to centers.

Response: The Department agrees with the concern from the infant/toddler professional, but also recognizes the difficulty centers have in securing a qualified and trained staff person in the infant/toddler program when the center has experienced turnover in the staffing of the infant/toddler program. The situation should be temporary while the center secures qualified staff. This revision also clarifies that the qualified staff member acting as a mentor and resource needs to be present in the infant/toddler program. The current regulation was being interpreted by some centers as the staff person needing to be present in the center, but not necessarily in the infant/toddler program. **The Department will not make a change to the proposed language.**

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9.1.h.4.D. A degree in a business, management or administration field with twelve (12) credit hours in early childhood development and three hundred (300) hours of relevant work experience working with young children.

Comment Summary: There were three identified comments to revise this regulation to include an experience substitution for the credit hours in early childhood or 70 hours of STARS approved training.

Response: The Department is not opposed to the suggested change, but since no revision was put forward for public comment, a change cannot be made. The Department will take the comments under advisement and present the revision in a future proposed revision. **The Department will not make a change to the proposed language.**

9.8. Substitute. The center shall ensure that a substitute meets the minimum qualifications of the position for which substituting and has completed background checks, or does not work alone if the background checks have been submitted but the results have not been returned.

Comment Summary: There were six identified comments and two anonymous comments. Commenters generally had a concern that it would not be possible to find a substitute that meets the qualifications of the position they are to fill, especially in light of the pay offered. One of the comments suggested that the regulation be in two parts – a short term substitute that does not need to meet the position’s qualifications and a long term substitute that would need to meet the position’s qualifications, and one commenter suggested that a limit be put on how long a substitute could fill a position.

Response: The Department’s intent with this revision is to make it possible for a substitute, who meets the qualifications of the position, to work without continuous supervision. Requiring a qualified substitute to work under continuous supervision also presents problems for center staffing when the position is not one that typically requires such supervision. The minimum requirement for a lead teacher or teacher is to have two years of relevant work experience. This does not seem to be an unusually difficult criterion to meet. However, the suggestion of a two part substitute regulation may help alleviate the issue for those centers that truly have difficulty in finding a qualified substitute at short notice for an unforeseen need. Some comments seemed to confuse the purpose of this regulation for child care center staff to also apply to the WV Pre-k staff, and some comments referred to floaters as being synonymous with substitutes. **The Department will revise the language of the regulation.**

11.3.d. Use appropriate time-out periods only as necessary for a child to calm down or gain control of his behavior and not for over one (1) minute for each year of a child’s age. Time-out may be used only for children over the age of four (4) years unless a younger child has time-out included in a multidisciplinary behavior plan;

Comment Summary: There were five comments opposed to the change and one comment that believes time-out is an ineffective tool and should be eliminated altogether. Keeping disciplinary practices the same at the center as at home is offered as a rationale not to change the regulation (or to not regulate time-out at all). Other reasons are based upon a child with proper communication and language development can benefit from being separated so that redirection can occur.

Response: In the context of the definition of time-out in the regulation, time out is removing a child from regular activities as a consequence for specific behavior. When used effectively and appropriately, time-out would be infrequent and, according to Caring For Our Children, would only be used for behaviors that

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are persistent and unacceptable. It has been the observation of licensing staff that time-out continues to be used in many centers incorrectly; a child is set apart as a punishment without much process associated with the consequence and therefore guidance and teaching of self control is absent. While the Department does not assume that all staff in centers do not understand how to implement effective guidance and discipline, it also cannot ignore the concerns raised by licensing staff in the amount of incorrect practice observed in centers. It is likely that those centers that have staff that understand child development and the use of effective guidance, modeling and discipline use time-out infrequently and in a productive manner – a manner that would be observed as good practice and not observed as a “traditional” time-out. The Department believes that changing the language so that time-out is used for children under the age of four only if it is included in a multidisciplinary plan will ensure that time out will be used properly for those children. **The Department will not make a change to the proposed language.**

13.3.a.3. Feeding equipment that is appropriate and sufficient for the children's sizes, ages, and numbers served; provided that tables with built-in multiple bucket-type seats shall not be purchased or acquired for use in the center after the effective date of this rule. When feeding equipment is a high chair, the chair shall have a wide base and a T-shaped safety strap;

Comment Summary: There were two identified comments in support of this change. One commenter would like to have all such seating replaced within 12-18 months and also suggested that a high chair be required to have foot support.

Response: The Department agrees that elimination of the multiple bucket-type seats is ideal, however is mindful of the costs being placed upon centers to bring cribs into compliance. The Department agrees that high chairs need foot support, but that change may cause additional burden and it was not included in the revision for public comment. The topic will be addressed in the next revision. **The Department will not make a change to the proposed language.**

13.4.e.1. Cribs shall comply with the federal standards for cribs and non-full size cribs;

13.4.e.3. The crib shall be sturdy, non-collapsible and easily disinfected - play yards, playpens and “pack and plays” do not meet this requirement;

13.4.e.6. Effective December 28, 2012, the use of traditional drop side cribs, and any crib manufactured prior to June 28, 2011 is prohibited.

Comment Summary: There were four identified comments and one not identified. Two commenters supported the elimination of play yard type equipment and one commenter believes the elimination will cause a decrease in the amount of space for capacity of infants. Two comments asked that cribs manufactured after June 2010 with a certificate of compliance be permitted.

Response: The Department made an error of omission when not including cribs manufactured between June 2010 and June 2011 with a certificate of compliance. As to the use of play yards, play pens and pack –and–plays, the Department finds that in addition to concern about some of the equipment recalls, these pieces of equipment are difficult to clean and sanitize, especially when they have surfaces that are cloth or mesh. The Consumer Product Safety Commission (CPSC) does have a standard for non-full size baby (nfsb) cribs that are acceptable for use. The CPSC states:

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An NFSB crib does not include mesh/net/screen cribs, baby cribs that are not rigidly constructed, cradles (both rocker and pendulum types), car beds, baby baskets, and bassinets (also called junior cribs).

The Department will correct the regulation in regards to cribs with a certificate of compliance that were manufactured prior to June 28, 2011. The Department will not make a change to 13.4.e.3.

13.5.h.2. Use zones are extended by at least six (6) feet in all directions from the perimeter of indoor climbing equipment, and the use zone surfacing is constructed of material that has an American Society for Testing and Materials (ASTM) rating for the critical fall height of the equipment. The use zone surfacing shall be securely fixed in place;

Comment Summary: There were five identified comments and one anonymous comment. The comments were concerned "securely fixed in place" will be interpreted as permanently fixed in place, therefore not allowing for flexible use of indoor space.

Response: The problematic phrase of "securely fixed in place" is not a change – the regulation has always required the indoor fall material to be securely fixed in place. Securely, in this case, means that the material will remain in place when in use; if a child runs or jumps on the surfacing, it will not move or slide. The Department does not expect that a center will permanently fix surface mats in place; it does expect that surface mats will remain in place when in use. The change of this regulation was to help clarify what is acceptable material for an indoor use zone surface. **The Department will not make a change to the proposed language.**

13.5.h.3. Climbing equipment for children under 24 months may not exceed 32 inches. If the climbing equipment is located in the designated area for children under 24 months, then the use zone need only extend for 36 inches;

Comment Summary: There were two identified comments. The comments suggest changing the 32 inch height to no more than 24 inches (one foot per year of age), thereby meeting the standard recommended by WVIT, ITERS-R and Caring For Our Children.

Response: The source material for this regulation is the Consumer Product Safety Commission. The Department recognizes the suggested changes as best practice. However, such a change may cause additional burden and it was not included in the revision for public comment. **The Department will not make a change to the proposed language.**

13.8. Trampolines are prohibited.

Comment Summary: There were five identified comments and one anonymous comment. The comments were not opposed to prohibiting the use of large trampolines, but wanted the small trampolines for indoor use permitted.

Response: Based upon comments, the Department would like to study the types and use of small trampolines in the center setting. The prohibition was indeed targeted to standard trampolines, but trampoline was not defined. The Department will clarify the prohibitive language of standard trampoline and treat it as a special activity. The regulation will remain silent on the use of small trampolines and the Department will make further study. **The Department will revise the language of the regulation.**

14.3.c.7. Qualified staff shall promote children's active play, and participate in children's active games at

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times when they can safely do so.

Comment Summary: “Does the word ‘qualified’ staff mean that volunteers, teen aides, or special speakers cannot provide children’s active play or participate with the children?”

Response: No it does not.

14.3.c.3.c. Children less than one year of age shall be taken outside two to three times per day, as tolerated;

Comment Summary: One comment felt this would be disruptive to infants’ routines and would like the regulation to be worded so that it respects what the young infant chooses for its schedule on any given day.

Response: The Department understands that infants benefit from being outdoors and that infant schedules vary depending on their development. “As tolerated” allows for flexibility for the infant. **The Department will not make a change to the proposed language.**

14.3.c.6. Infant equipment such as swings, stationary activity centers (exersaucers), infant seats, molded seats etc. if used shall only be used for short periods of time not to exceed fifteen minutes. A least restrictive environment should be encouraged at all times.

Comment Summary: There was one identified and one anonymous comment. One comment believes as long as the infant is receiving stimulation and interaction it is not necessary to limit the time. One stated, “there are several reasons this reregulation (sic) wouldn’t work.. for instance, we have children who have reflux that have to be in a propped or sitting position (sic) for at least 30 minutes after eating, these children sometimes have to be in a bouncy seat or swing so that the caregivers can take care of the other children, also i can understand the logic of this proposed reg if you could change it from infants to ‘children who can sit on their own’ it would make more sense.”

Response: The regulation is referring to the type of infant equipment that restricts movement. Infants need the opportunity for active movement and the opportunity for safe floor time. Best practice standards indicate that such equipment should not be used more than two times per day for a maximum time of 15 minutes per use. (Caring For Our Children, Standard 5.3.1.10) Children that require special care due to a medical condition should have the written instruction in the child’s file – then the use of the equipment for that length of time for that purpose would be acceptable. Any equipment used should be developmentally appropriate for the child being placed in it. **The Department will not make a change to the proposed language.**

14.7.f. Children between the ages of two years and school age shall be limited to using screen media not more than thirty minutes per week and for educational or physical activity use only;

14.7.g. School age children shall be limited to using screen media not more than thirty minutes per week and for educational or physical activity use, except for the use of computers and other media as needed for homework;

Comment Summary: There were approximately 15 comments regarding screen time (some appeared as duplicates and are not included in that number). Generally the comments can be categorized as concern that 30 minutes per week is not enough when using educational screen media (computers and smart boards) and concerns that this will impact what can be done in the Pre-k classroom. Two of the

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comments indicated a desire to use screen media in such a way that is currently prohibited (as routine) and one comment suggested that any television, movie or dvd material be prohibited, but not other types of screen media.

Response: The revision to the rule that addresses the increase in activity, promotes sound nutrition and decreases screen time while in care is designed for the well-being of the child. It is important that caregivers be able to model healthy living and engage the child in activity and learning without the use of screen media. Activity with others and the development of relationships is important to the development of the young child; time in front of a screen takes away from that opportunity. The Department does not want to eliminate the use of screen technology, but for the preschool age child, the use of screen technology should be a supplement while the child is in care. The child will be engaged in the use of screen media outside of the care setting, including at home and when old enough, in the Pre-k classroom. The regulation governing the use of screen media and the length of time is not meant to be a regulation that governs the WV Pre-k curriculum. Several comments stated that 30 minutes per week would be difficult to track; the Department agrees. **The Department will revise the language of the regulation.**

15.4.h.7.E. Medication for teething pain does not contain benzocaine;

Comment Summary: There were two identified comments and one anonymous comment. One comment was in agreement with the change. One comment disagrees with this regulation and believes the Department should not prohibit the use until there is a recall of the product; parents may wish to use this medication instead of Tylenol or Motrin. The other comment suggests requiring written instruction from the health care provider.

Response: The Department finds the Food and Drug Administration's Safety Alert compelling regarding the use of benzocaine. There are other alternatives to relieving the symptoms of teething. However, if a parent and the child's health care provider believe a product containing benzocaine is the best course, then the Department agrees that at this time, prohibition is unnecessary, but written instruction for the center will be necessary. **The Department will revise the language of the regulation.**

16.3. Frequency of Meals. A center shall offer food at intervals no more than three hours apart and ensure that no more than four (4) hours elapse between meals and snacks for any child. A center shall provide meals and snacks according to the following requirements

Comment Summary: There were two identified comments. One does not understand the language and one believes that programs that participate in the Child and Adult Food Program should follow those guidelines.

Response: The intent of the language is to ensure that food is offered at least every three hours, but in any circumstance, no more than four hours should elapse between meals and snacks (child is sleeping, group is on a field trip, child arrives to center after school, etc.). The Department has consulted with the Office of Child Nutrition to ensure that this regulation is not in conflict with the requirements of that program. **The Department will not make a change to the proposed language.**

16.5.e. Children will be given time to eat their food without rushing.

Comment Summary: There were three identified comments and one anonymous. One parent feels her child is rushed to at the center and believes preschoolers need at least 30 minutes. Other comments

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involve the interpretation of “rushing” and also raise concerns over the children who wait or will prolong eating in a purposeful manner.

Response: The Department hesitates to put a definitive time for meals as group compositions vary as well as the learning and socialization that takes place during the meal time. As staff engage children at meal time, they should be able to evaluate the child who needs more time and the child that has a different purpose for prolonging the meal and then plan on how best to address the individual needs. **The Department will not make a change to the proposed language.**

16.8.b. A center caring for a child twelve (12) months of age and under shall feed the child according to a plan developed in consultation with the parent and may include advice from the child’s licensed health care provider. Due to the differences in development and nutritional needs of an infant, the center is not required to provide the baby food an infant not yet eating table food will receive, but must ensure that the parent is providing food that is required to meet the infant’s need.

Comment Summary: There were two identified comments and on anonymous comment. The comments suggest this is a conflict with the CACFP and one comment needs clarification of the regulation’s intent.

Response: The Department was offering a clarification of current practice in many centers. While other requirements assume that a parent is bringing infant food into the center, the rule did not clearly state that it is permissible. A center is required to offer a nutrition program, this regulation eases that for infants. Centers do need to have a clear policy and procedure for this. If a center must offer all the nutrition to an infant based upon participation in the CACFP, then this regulation would not prohibit that. **The Department will reword the regulation for clarification.**

17.2.d. A hand washing sink shall be located in the immediate area of the diaper changing surface; provided that centers licensed prior to the effective date of this rule shall not be considered out of compliance with this requirement, but shall not, after the effective date of this rule, have additional diaper changing space approved without a sink in the immediate area.

Comment Summary: There were two identified comments. One comment in support and one asking for clarification on “immediate area”.

Response: Caring For Our Children states that the sink should be in arm’s reach. Merriam-Webster defines immediate as being without intervening space or being near at hand. **The Department will not make a change to the proposed language.**

19.6.i.7. A procedure for practicing moving to the safe location within a center at least two (2) times a year and a procedure practicing relocation with staff members two (2) times per year;

Comment Summary: There were two identified comments and one anonymous comment. Comments are requesting clarification of the meaning of practicing relocation and also indicating that to do so would be a hardship. One suggested that the training be added to new staff orientation and then practice once per year.

Response: The intent of the change was for a center to practice with their staff the procedure for relocating (in accordance with the center’s emergency plan). It is not the intent that children be involved with this practice. Emergency procedures need to be practiced by staff so that their roles during the procedures are understood and they are familiar with what to do so that children and staff are evacuated

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safely and are accounted for. The roles or steps required for relocation may be different than for an evacuation; staff need to be familiar with both. The relocation practice may or may not involve traveling to the relocation site, but staff will need to practice arranging the transportation, identifying the drivers, knowing the routes, knowing how communication will operate between center staff and parents, what will be carried to the relocation site(s) and who is responsible for what items, who and how to account for the evacuation/relocation of all the staff and children, etc. The Department agrees that emergency procedures should be part of a new staff person's orientation and finds this is covered under 8.6.d.3. **The Department will not make a change to the proposed language.**

From	Subject	Received	C...
Date: Yesterday			
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/24/2011 12:15:17 AM	Sun 07/24/2011 12:17 AM	
Date: Last Week			
Kim Stitzinge...	RE: Childcare regulations	Fri 07/22/2011 10:10 AM	
Stewart, Paul...	Revision to 78CSR1	Thu 07/21/2011 4:16 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/20/2011 2:51:29 PM	Wed 07/20/2011 2:53 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/20/2011 12:11:36 PM	Wed 07/20/2011 12:13 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/20/2011 12:05:40 PM	Wed 07/20/2011 12:07 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/20/2011 11:55:01 AM	Wed 07/20/2011 11:56 AM	
* Dianellos, Jes...	FW:	Wed 07/20/2011 10:33 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/20/2011 10:31:07 AM	Wed 07/20/2011 10:32 AM	
Craythorne, D...	FW: Title 78, Legislative Rule Comment - 7/15/2011 4:01:37 PM	Tue 07/19/2011 3:54 PM	
Date: Two Weeks Ago			
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/15/2011 8:41:35 AM	Fri 07/15/2011 8:43 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/15/2011 8:17:22 AM	Fri 07/15/2011 8:19 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/15/2011 7:53:17 AM	Fri 07/15/2011 7:54 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/15/2011 7:50:48 AM	Fri 07/15/2011 7:52 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/15/2011 7:30:30 AM	Fri 07/15/2011 7:32 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/15/2011 7:26:43 AM	Fri 07/15/2011 7:28 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/15/2011 7:19:50 AM	Fri 07/15/2011 7:21 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/14/2011 5:29:02 PM	Thu 07/14/2011 5:30 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/14/2011 12:45:57 PM	Thu 07/14/2011 12:47 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/13/2011 10:28:46 PM	Wed 07/13/2011 10:30 PM	
Friends-R-Fun	public comments on licensing changes	Wed 07/13/2011 5:02 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/13/2011 4:57:36 PM	Wed 07/13/2011 4:59 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/13/2011 4:55:27 PM	Wed 07/13/2011 4:57 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/13/2011 2:43:53 PM	Wed 07/13/2011 2:45 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/13/2011 12:00:17 PM	Wed 07/13/2011 12:01 PM	
sunbeamccc...	Comments	Wed 07/13/2011 11:43 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/12/2011 10:49:52 AM	Tue 07/12/2011 10:51 AM	
Jbarkerplaym...	Fwd: [WVCCU Mass Contact] licensing revision	Tue 07/12/2011 10:43 AM	
Craythorne, D...	FW: 2012-13 Draft State Plan Public Comment Submission - 7/12/2011 7:4...	Tue 07/12/2011 9:06 AM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/11/2011 4:52:32 PM	Mon 07/11/2011 4:54 PM	
Friends-R-Fun	Comments on changes	Mon 07/11/2011 4:17 PM	
Bobbie Mend...	Concerns on Rule Changes	Mon 07/11/2011 2:33 PM	
Date: Three Weeks Ago			
Dianellos, Jes...	FW: Public Comment Period	Fri 07/08/2011 12:16 PM	
BCF Web Ad...	Title 78, Legislative Rule Comment - 7/7/2011 3:07:48 PM	Thu 07/07/2011 3:09 PM	
Jbarkerplaym...	Public Comments on Child Care Licensing Changes	Thu 07/07/2011 3:04 PM	
Dianellos, Jes...	FW:	Tue 07/05/2011 8:45 AM	
Date: Earlier this Month			
stjoekids@co...	objection to proposal	Fri 07/01/2011 4:52 PM	
colagrosso@s...	licensing revision comments	Fri 07/01/2011 3:32 PM	
Date: Older			
Duseyland Da...	Cribs	Thu 04/07/2011 1:42 PM	

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Sunday, July 24, 2011 12:15 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/24/2011 12:15:17 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 14.7f. Limiting all types of screen time to a maximum of 30 min per week may be difficult for classrooms utilizing screen technology in an active way in their classrooms, specifically WVPreK classrooms (many now have smart boards, etc). Could that maximum time be increased? Is there a way to more clearly distinguish between passive media activities and hand on learning using technology?

Name: Traci Dalton

Address: 350 Capitol Street, Charleston, West Virginia 25301

Phone: 356-4604

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Sunday, July 24, 2011 12:15 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/24/2011 12:15:17 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 14.7f. Limiting all types of screen time to a maximum of 30 min per week may be difficult for classrooms utilizing screen technology in an active way in their classrooms, specifically WVPreK classrooms (many now have smart boards, etc). Could that maximum time be increased? Is there a way to more clearly distinguish between passive media activities and hand on learning using technology?

Name: Traci Dalton

Address: 350 Capitol Street, Charleston, West Virginia 25301

Phone: 356-4604

Chambers, Beth H

From: Kim Stitzinger-Jones [Kim.Stitzinger-Jones@wvago.gov]
Sent: Friday, July 22, 2011 10:09 AM
To: Chambers, Beth H
Subject: RE: Childcare regulations

Yay! Ok, my issue is that my son's daycare has the attitude that 20 minutes is enough time for 3,4 and 5 year olds to eat. But, I've noticed when I go to eat with him that he doesn't have enough time to eat and he stays with me to finish his food. I think they should at least have 30 minutes!!

Ok, that's my 2 cents! Thanks for listening!

Kim

>>> "Chambers, Beth H" <Beth.H.Chambers@wv.gov> 07/22/11 10:06 AM >>>
Yes, it did. Thanks!

Beth Hall Chambers, Program Manager
WVDHHR
Division of Early Care and Education
Child Care Center Licensing
350 Capitol Street, Room 18B
Charleston, WV 25301
(304)356-4608 phone
(304)558-8800 fax

-----Original Message-----

From: Kim Stitzinger-Jones [mailto:Kim.Stitzinger-Jones@wvago.gov]
Sent: Friday, July 22, 2011 9:53 AM
To: Chambers, Beth H
Subject: Childcare regulations

Hi Beth,

I'm Wil's wife and he wasn't sure if he had your email address right, so I'm checking to see if it is. I wanted to give some input to the rewrite of the regs regarding the time for lunch. Let me know if this reaches you and I'll send my comments! Thanks!!

Kim

Chambers, Beth H

From: Stewart, Paula L
Sent: Thursday, July 21, 2011 4:16 PM
To: Chambers, Beth H
Subject: Revision to 78CSR1

Ms. Chambers,

Thank you for the opportunity to comment on the upcoming revisions. I am excited to see West Virginia Early Care and Education taking forward steps to improve the quality of care for our states youngest citizens. As the Infant Toddler Specialist from Link Child Care Resource and Referral I am encouraged to see the revision of 13.3.a.3 to phase out the use of table s with bucket seats. It also is encouraging seeing that playpens and pack plays 13.4 are being phased out as the federal standards for crib safety take effect.

However, I concerned with 13.5.h.3, two of the resources we use for the West Virginia Infant Toddler Development Program ITERS-R and Caring for Our Children both recommend the height for Infant Toddler climbing equipment be one foot per age of the child. I recommend that West Virginia Regulations change from 36" to meet these recommended standards. The reduction in the number of hours an infant/toddler mentor is on sight concerns me as well. With the number of WVIT and ACDS classes available now I believe a qualified mentor/staff member should always be present when the majority of children under twenty four months are present.

It is also encouraging to see 15.4.h.7.E banning the use of medications using benzocaine as well as 17.2.9 requiring all new diaper changing areas have access to a hand washing sink in the same area.

Thank you for your work towards increasing the quality of Early Care and Education in West Virginia.

Sincerely,

Paula L. Stewart
Infant Toddler Specialist
LINK CCR&R
River Valley Child Development Services
"Serving children and families since 1971"
611 7th Ave.
Huntington, WV 25701
304- 523 -9540 Ex.228
800- 894- 9540 Ex. 228
Fax: 304 - 697-4821
paula.l.stewart@wv.gov

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 20, 2011 2:51 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/20/2011 2:51:29 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: In regards to the entire document-

The licensing document is hard to read. It needs to have headings that are larger in order to find information easier. It also needs to have relevant topics grouped together. There is a section on employee files and then a few sections over there is something about a child abuse policy that needs to be put into their file. Why is this information not together?????? Make it easier to read!!!!!!

Name:

Address: , ,

Phone:

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 20, 2011 12:12 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/20/2011 12:11:36 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 13.4.e.6 Cribs

Prohibiting the use of cribs manufactured before June 28, 2011 eliminates cribs that are compliant with the new safety rules. Centers that purchased compliant cribs before this date should have a letter on record that states that the crib is compliant.

WVIT money that went to the purchase of cribs may be useless if cribs that meet the standards, but were manufactured before June 28, 2011, are prohibited.

Name:

Address: , , 26034

Phone:

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 20, 2011 12:06 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/20/2011 12:05:40 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 9.8 Substitute

Requiring substitute's to meet the minimum requirements of the position they are substituting for will create an unnecessary burden on child care centers. A center may have only one staff person per position and a few floaters. Floaters need to be able to step into any position, regardless of their qualifications.

Name:

Address: , , 26034

Phone:

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 20, 2011 11:55 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/20/2011 11:55:01 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 13.4.e-Can you reword to to allow cribs manufactured prior to the July 2011 date must have a certificate of compliance.

13.5.h.3-Change height limit to match recommendation in ITERS-R which is 1 foot per year of age.

14.3.c.3.b-add or refer to the Child Care Weather watch chart for heat index/wind chill

Name: Shannon Nichols

Address: 239 Court Avenue, Weston, West Virginia 26452

Phone: 3042695332

Chambers, Beth H

From: Dianellos, Jessica L
Sent: Wednesday, July 20, 2011 10:33 AM
To: Chambers, Beth H
Subject: FW:
Attachments: DHHR licening revisions.docx

Comments for you...

Jessica L. Dianellos

Early Care and Education Specialist
Division of Early Care and Education
WV Dept. of Health and Human Resources
350 Capitol Street, Room B-18
Charleston, WV 25301
Phone: (304) 356-4605
Fax: (304) 558-8800
Email: Jessica.L.Dianellos@wv.gov

From: Melanie White [<mailto:lighthousedaycare@suddenlinkmail.com>]
Sent: Wednesday, July 20, 2011 10:31 AM
To: Dianellos, Jessica L
Cc: lighthousedaycare@suddenlinkmail.com
Subject:

July 20, 2011

Dear Jessica-

Please find attached the comments and concerns our center has over the licensing revisions.

Thank you
Melanie White, Ed.S.
Lighthouse Daycare Center

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 20, 2011 10:31 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/20/2011 10:31:07 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 6.7 Risk Management

Requiring child care centers to carry additional coverage for negligence and injuries will cause an undue burden to owners and operators. This additional cost will then be placed upon the parents of the children we serve. More than likely, this burden will be placed on private pay parents as the state will not increase our reimbursement rates.

Name: Melissa Hudson

Address: , Chester, West Virginia 26034

Phone: 3043870101

Chambers, Beth H

From: Craythorne, Deidre W
Sent: Tuesday, July 19, 2011 3:54 PM
To: Chambers, Beth H
Subject: FW: Title 78, Legislative Rule Comment - 7/15/2011 4:01:37 PM

This one belongs to you

-----Original Message-----

From: BCF Web Administrator [mailto:michael.l.pack@wv.gov]
Sent: Friday, July 15, 2011 4:02 PM
To: Craythorne, Deidre W
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/15/2011 4:01:37 PM

Rule Selections:

Family Child Care Facility Licensing Requirements

Comment:

9.1.h.4.D A degree in a business, management or administration field and 3 years experience in an early child program or twelve(12) credit hours in early childhood development and three hundred(300) hours of relevant work experience working with young children or 70 approved training hours from WV STARS.

..

Comment: We should consider staying in alignment with NAEYC and QRIS requirements which would also include the alternate pathway of a degree in business and 3 years experience working in an early childhood setting or 70 approved training hours from WV STARS.

13.5.h.4 Small objects.....not under the age of 4 years old.

Comment: To align with NAEYC and ECERS the age for small objects requirement is children under 3 years old. We need to stay aligned w/NAEYC standards to maintain quality programs.

13.8 Trampolines are prohibited.

Comment: This should be specific to out door large trampolines and/or allow small indoor exercise trampolines. The small exercise trampolines are great indoor activity and often included in a special needs children's individual physical therapy plans to improve gross motor skills. If not specific, licensing specialist will not allow the use of the exercise trampolines.

Name: Gretta Hill

Address: 3603 Piedmont Rd., Huntington, West Virginia 25704

Phone: 3044294851

Lighthouse Daycare Center

2440 US Route 60, Hurricane, WV 25526 (304) 562-3900

July 18, 2011

To whom it may concern:

On behalf of Lighthouse Christian Academy and Daycare Center of Hurricane, we are expressing concern on several of the proposed licensing revisions currently up for review. As a preschool and early learning center, we value education and want to offer excellence to the children of our community.

Section 9.8 defines a substitute as having the same qualifications as the person for whom they are substituting...this practice is very impractical for early learning centers as we do not have a county wide substitute list (like the public school system) from which to draw experienced replacements.

Section 11.3.d prohibits a child under the age of 4 from being placed in time out... this practice of separating a child from the situation allows short term goals to be met allowing for redirection of behavior and refocusing on learning.

Section 13.5.H.2 prohibits mobile mats from being used for inside gross motor equipment....this practice generalizes all centers and does not allow for centers that must use an indoor space for multiple venues.

Section 14.17.F. limits "screen time" to 30 minutes per week... this would not allow educational computer programs, or other forms of technology to be used in learning centers which are often viewed as imperative to 21st century early learning.

Please consider our comments to the revisions as you look for ways to improve the overall quality of the early childhood care and learning in our state.

Sincerely,

Melanie E. White, Ed.S
Administrator/ Director

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Friday, July 15, 2011 8:42 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/15/2011 8:41:35 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 14.7.f...screen media, i have several issues with this, first our prek collaborative requires that computers be in the classroom and available to the children at all times. Second, we have a Wii for the school age children and we only allow active games played on it, so i feel that it allows the children to be active and engaged, especially during the winter months. Also, we have a company, "Compu child" that teaches the children computer classes twice per month, so with this reg on those weeks they wouldnt even be allowed to have computer time during class.

Name: jennifer trippett

Address: Cubbys Child Care Center, Bridgeport, 26330

Phone: 3048423508

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Friday, July 15, 2011 8:17 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/15/2011 8:17:22 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 14.3.c.6 there are several reasons this reregulation wouldnt work.. for instance, we have children who have reflux that have to be in a propped or sitting position for at least 30 minutes after eating, these children sometimes have to be in a bouncy seat or swing so that the caregivers can take care of the other children, also i can understand the logic of this proposed reg if you could change it from infants to "children who can sit on their own" it would make more sense.

Name: jennifer trippett

Address: Cubbys Child Care Center, Bridgeport, 26330

Phone: 3048423508

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Friday, July 15, 2011 7:53 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/15/2011 7:53:17 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 11.3.d in my opinion there should be nothing in regulations about time outs other than the fact that it should not be for more than a minute per age. I have a parent who is a behavioral specialist who wants time out used for her two year old.. the fact is that these types of regulations do not allow us to work with parents in a cooperative manner, thus keeping the 'discipline' at home and school different and ineffective. Also we use "quiet time" "chill out time" and "thinking time" with various groups, are these considered "time out" ?

im resending this because im not sure it went through the first time, so if you get it twice i apologize.

Name: jennifer trippett

Address: Cubbys Child Care Center, Bridgeport, 26330

Phone: 3048423508

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Friday, July 15, 2011 7:51 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/15/2011 7:50:48 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 11.3.d in my opinion there should be nothing in regulations about time outs other than the fact that it should not be for more than a minute per age. I have a parent who is a behavioral specialist who wants time out used for her two year old.. the fact is that these types of regulations do not allow us to work with parents in a cooperative manor, thus keeping the 'discipline' at home and school different and ineffective. Also we use "quiet time" "chill out time" and "thinking time" with various groups, are these considered "time out" ?

Name: jennifer trippett

Address: Cubbys Child Care Center, Bridgeport, 26330

Phone: 3048423508

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Friday, July 15, 2011 7:31 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/15/2011 7:30:30 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 16.5.e this statement is to vague.."rushing" has no specific time attached to it so it is therefore open for interperation..

Name: jennifer trippett

Address: Cubbys Child Care Center, Bridgeport, 26330

Phone: 3048423508

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Friday, July 15, 2011 7:27 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/15/2011 7:26:43 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 16.3 Frequency of meals should be consistent with CACFP guidelines for those of us who participate in the program.

Name: jennifer trippett

Address: Cubbys Child Care Center, Bridgeport, 26330

Phone: 3048423508

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Friday, July 15, 2011 7:20 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/15/2011 7:19:50 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 15.4.h.7.e i do not feel that a parents right to give teething medicines should be taken away from them. I understand the concerns for not allowing it, however until it is recalled the parents should have the right to request the use of it. i am located next to a hospital and have many parents who are doctors and i have discussed this with them and they are not concerned with the report at this time and would prefer to use this medication over the alternatives which are tylenol and motrin, as those medications have proven negative side effects if overused.

Name: jennifer trippett

Address: cubbys child care center, bridgeport, 26330

Phone: 3048423508

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Thursday, July 14, 2011 5:29 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/14/2011 5:29:02 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 6.7 Page 15 I feel this would be an unfair burden to childcare centers to provide that kind of insurance.

9.8 Page 29 Most of our substitutes are "new hires" that do not meet the qualifications required for a lead or assistant teacher. It is very hard to hire a qualified person to just work when needed.

11.3.d Page 35 Children 3 yrs. and up are able to understand being placed in time out. That is a form of discipline that is used in most homes today.

13.5.h.2 Page 42 If the use zone is securely fixed in place for indoor equipment, how would you be able to clean under it and what about the damage to the carpets?

13.8 Page 44 Does this include prohibiting the use of small single person trampolines?

14.3.c.7 Page 47 Does the word "qualified" staff mean that volunteers, teen aides, or special speakers cannot provide children's active play or participate with the children?

14.7.f Page 49 What about our computer centers in the classroom or the viewing of a movie on special occasions, or putting children down for nap time?

14.7.g Page 49 The 21st Century Learning Standards are increasing the use of technology in the classrooms and this would do away with the educational software. Does this mean 30 minutes per child or per classroom?

16.5.e Page 61 What happens if a child talks the whole time he/she is given to eat and then starts rushing to eat their food before they have to clean up? What happens if it takes a child an hour to eat their meal?

16.8.b Page 62 Unsure of the wording? Are you saying that the center does not have to provide the baby food for infants, but the parents are now responsible to supplying it to the center?

19.6.7 Page 69 Are we going to have to practice reloading with the children 2 times per year or just the staff? If it is just the staff, when are we going to be able to do that when they are watching the children all day? If I were a parent, I would not want my children being transported off the premises 2 times a year. It is too dangerous to be out on the roads if it is not an emergency. We have a couple of relocation areas depending on the type of emergency or the location of the emergency. Do we have to go to every location 2 times a year?

Name:

Address: , ,

Phone:

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Thursday, July 14, 2011 12:46 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/14/2011 12:45:57 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 14.3.c.6 15 minutes is too stringent a time to limit the appropriate use of exersaucers, infant seats and swings for non mobile babies. If the equipment is developmentally appropriate for the child and the child is receiving stimulation and appropriate interactions, there is no reason to limit time to 15 minutes.

15.4h.7.E Oral pain relief medications should require the written instructions of health care provider not be completely eliminated.

16.3 the wording is unclear.

Name:

Address: , ,

Phone:

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 13, 2011 10:29 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/13/2011 10:28:46 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: I have several concerns about these revisions. I am wondering if there was a committee involved in writing these revisions. If so, were there Child Care Center Directors on this committee?

I am very concerned about the unrealistic and unnecessary burden imposed by requiring childcare centers to carry medical insurance (for injuries) on the children in their centers. Fortunately 95% of the children in West Virginia are now insured. If a childcare center is neglectful and causes a child's injuries then the parents could sue and the liability insurance would then cover the expenses. If a child is injured due to a common accident, then the child's medical insurance will pay for this expense. Childcare centers can not afford to purchase insurance for the children, certainly not with the current rate for subsidized care. Perhaps, centers could inform parents upon enrollment that they should carry medical insurance for their children in case of injury. This is what public schools do, and they include information on available accident insurance policies.

9.8 It is not reasonable to require a substitute to have the same minimum qualifications as the teacher they are replacing, especially in a short term emergency situation. In the public school systems, we require certified teachers for teaching positions because they are responsible for planning and implementing curriculum, and managing classroom routines. If they are out sick or for a short period, a substitute is called in, and that substitute will have basic health and safety training and a criminal background check. I believe the definition of a substitute should be left alone. If there are issues of "substitutes" serving as lead teachers for too long, then make a limit on the length of time a "substitute" may be used in a classroom. There is no way that centers can maintain a list of available substitutes that are qualified to be lead teachers. If they are qualified for better positions, they will find them.

11.3.D Many children by the age of 3, provided that language/communication skills have developed well, do benefit from a well handled time out period. I do not think that childcare licensing needs to set a hard set rule about a child's age in relation to the type of behavior management plan being implemented. The requirement to consult with a behavior management specialist in regard to reoccurring or difficult behavior problems is sufficient. I believe this change is in conflict with many respected and researched behavior strategists.

13.5.H.2 I do not think we want to require inside fall zones to be securely fixed in place. Very few centers have space that can be permanently designated as indoor gross motor areas. There are many portable mat solutions that provide very safe indoor gross motor opportunities. Requiring sufficient appropriate fall zone is adequate. I believe if you leave this, you will reduce our children's opportunities for gross motor, in an age when we are trying to fight childhood obesity through increased gross motor opportunities.

13.8 I would recommend defining "trampoline" There are several styles of small exercise trampolines that are wonderful for indoor gross motor for young children. These are less than 12 inches off the floor, and have handles that toddlers can hold and jump. I think we want to leave this as a possibility for indoor gross motor.

14.7.F The limit of screentime to 30 minutes per week is not appropriate. In the 21st learning standards it is necessary to include more, not less technology and computer based learning opportunities in our classrooms. There are many educational and developmentally appropriate computer software programs in our childcare centers that are benefiting our children and

increasing their knowledge of computers in preparation for 21st century learning. There are also many active, gross motor videos in our centers that are encouraging indoor gross motor and increasing the activity levels of our children. 30 minutes per week would be a loss of educational and physical opportunities.

16.5.E There should be a definition of "rushed" If there is concern for children having an adequate amount of time to eat than please define that amount of time. This statement leaves much open for interpretation. There are children who will sit at the lunch table for very long times, eating one bit every 5 minutes, in order to avoid nap time. These children may need to be given a deadline to finish eating. Each licensing specialist may have a different idea of "rushed" when it comes to young children and lunch.

16.8.b I am concerned this is in direct conflict with the CACFP. I would recommend consulting them about this. There was a large issue with CACFP several years ago, concerning "age discrimination" in centers that did not provide formula for infants. I believe they will agree that centers could be discriminating if they provide food for some ages but not all. Perhaps you could allow an agreement that would give the parent the opportunity to provide it if they didn't like the options that the childcare center provided.

17.2.d need to define "immediate area" This statement is unclear and leaves room for personal perceptions. I believe each of the licensing specialist may have different ideas on "immediate area", and certainly many center directors will also.

19.6.7 I believe it is unreasonable and would cause a financial hardship on centers to have to actually have practices of their relocation drills with staff. I think it is very important to have trainings with staff regarding relocation and emergency plans. An actual practice would require staff to be present without children. In our center that only happens after 7 at night or on Sundays. We would have to close to make it possible to actually practice a relocation. Perhaps change to "training" instead of "practice"

Name: Melissa Colagrosso

Address: PO Box 1582, Fayetteville, West Virginia 25901

Phone: 3044696687

Chambers, Beth H

From: Friends-R-Fun [friendsrfun@frontier.com]
Sent: Wednesday, July 13, 2011 5:01 PM
To: Chambers, Beth H
Subject: public comments on licensing changes

14.7.f Would it be possible to re-word this somehow, so that an educational video would be allowed once/day during a 'transition' time surrounding 'potty and wash, brushing teeth, etc.' If there is only one teacher (due to few children) or even when there are two teachers in the room, they are kept very busy supervising the above activities, which makes it hard to keep order and control in the room where most of the children are. Having an educational video on keeps the children that are 'waiting' for their turn from 'creating their own activities'. I would like to see 30 min. /day allowed for transitional activities and only using educational videos/DVD's.

Are action/exercise videos/DVDs with music also banned that the children do exercises with? I understand we don't want to use screen media as a 'babysitter' or create more 'couch potatoes', but what is the real issue? What are you trying to accomplish or avoid? Screen media, used correctly, can enhance education and encourage movement with music. If it has been mis-used by some, one should not necessarily jump to the other extreme and nearly ban it entirely (which this new wording seems to do).

14.7.f It would be nice to allow educational computer software to be used by children in the classroom as a learning center. Decreasing group screen media time to once/week would not be a problem (since school-age children are more independent and do not need supervision when washing hands, using the restroom, etc.

14.3.c.7 The wording makes it sound like only 'qualified' staff can play with the children, which (carried to the extreme interpretation) would mean that teen aides or volunteers could not play with children. Deleting the word 'qualified' would make the wording work.

13.5.h.2 Matting under indoor play equipment should be portable, rather than 'fixed in place' (which would entail nailing or gluing to the floor). That doesn't allow for re-arranging the room or using the room for other functions or for cleaning under the matting.

13.8 I agree if you are referring to large trampolines because I think they are dangerous, but does it include the small one person trampolines that are less than 1 foot off the floor? - some even have handles to hold onto. Could be stipulated that only one child at a time use the small trampolines. Some centers use them for fundraising (raise money for # of jumps a child does), also good exercise.

16.8.b Sounds like centers no longer need to purchase baby food, is that correct?

19.6.7 Would sure like clarification on this one. When I originally read it, I thought you wanted centers to load up all their infants, toddlers and children and practice driving them or walking them down a road to an off-site relocation site. Surely the dangers of that maneuver are not what is intended, so please clarify. Also, if the intent is that only staff are to 'practice relocation with staff members 2x/year' - it sound like you are supposed to load up staff and drive them to the re-location site ('practice') - or do you want staff to be trained 2x/year or where the re-location sites are? How about including that in new staff orientation (so everyone would be trained immediately) and then once/year after that. That way everyone 'new' would know where and how to evacuate upon hire and all would be reminded yearly.

Thanks, Judy

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 13, 2011 4:58 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/13/2011 4:57:36 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 13.3.a.3 Feeding equipment that is a high chair should have foot support in addition to a wide base and safety strap.

Name: Alicia Hundley

Address: 315 N. Ohio Ave, Clarksburg, West Virginia 26301

Phone: 3046226528

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 13, 2011 4:55 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/13/2011 4:55:27 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 13.3.a.3 Consider giving centers 12 or 18 months to replace existing feeding equipment with multiple bucket type seats.

Name: Alicia Hundley

Address: 315 N. Ohio Ave., Clarksburg, West Virginia 26301

Phone: 3046226528

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 13, 2011 2:44 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/13/2011 2:43:53 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: Rule: 14.17.F limits screen time to 30 min.per child per week. NAEYC regulations limits time to 10 min. per day. With the advent of technology in public school classrooms...this revision will hamper progress in this area for all preK children entering the school system. I agree there should be limits on the time allowed, yet 30 minutes per week is not enough time per child. I would suggest that daycare centers restrict or eliminate completely the watching of television, DVD's, videos, etc. Will there be a clarification of screen time during free play/free choice and actual educational time on the computer? This could be another consideration. Exactly how will licensing specialists monitor exact times on the computer for each child? This appears to be a nightmare for specialists already burdened.

9.8 requiring substitutes to have the same qualifications as persons they replace. Hiring staff at the wages we can afford to offer is difficult. Training costs are rising. While we hire, train and attempt to maintain qualified staff. There are times when securing a substitute depends on who is available. Maintaining an extensive "sub list" is difficuclt at best. Substitutes want hours and prefer not to be "on cal".

11.3.d. I agree that time out is a very ineffective toll to use when working with chidlrne. I feel it should be eliminated altogether in the classroom. More appropriate methods/tools of discipline should be recommended. Train teachers in alternative methods of assisting children to solve problems present in the classroom and life.

Name: Patti Nelson

Address: 71 Washington Avenue, Huntington, 25701

Phone: 3045258701

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Wednesday, July 13, 2011 12:00 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/13/2011 12:00:17 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: With regard to WVDHHR Childcare Licensing Regulations proposed changes:

9.8 Changing the definition of a substitute to require a substitute to have the minimum qualifications of the person they are substituting for - I cannot fathom how this will be realistic or financially feasible. Our subs are paid minimum wage. Who is going to come to the center to fill in for my PreK teacher (who has a Bachelor's degree) with a BA for minimum wage? And if I increase my sub rate of pay, how do I afford that? Our finances are already strapped tight. I just can't see our facility being able to find or hire substitutes with such high qualifications. Why would you choose to sub for a childcare center over subbing in the school system, especially if you have the qualifications to work in the school system where the sub rate of pay is much better?

13.5.H.2 fall zones for inside gross motor equipment must be secured to the floor. I think mobile mats are more cost effective and efficient.

14.7.F limits "screen time" to 30 minutes PER WEEK per child. In an age of technology, when our PreK collaborative classrooms are required to have computers and SMART tables in them, I don't understand why we would put such strict limitations on the technology available. To many of our families who are low income, this is the only exposure that they will get to computers and SMART tables. They need to be able to manipulate these machines.

Name: Candice Mullins

Address: 301 8th Avenue, Apt. 1, Huntington, West Virginia 25701

Phone: 3046177973

Chambers, Beth H

From: sunbeamccc@aol.com
Sent: Wednesday, July 13, 2011 11:43 AM
To: Chambers, Beth H
Subject: Comments

Helen Post-Brown, Sunbeam Early Learning Center

Comments about revisions:

6.7 Risk Management for centers shall include a certificate of coverage for liability insurance (remove) which provides coverage for but not limited to negligence and injury.

Comment: Liability insurance does not cover the injury of children unless there is negligence found at the center or caused by a staff. A policy to cover injury would be separate and very costly. Typically, centers and public school systems, have a written statement in their parent information handbook, stating parents must carry their own health insurance and/or the school or child care center would not be responsible for children's injuries, children fall in their regular routine of the day, running, climbing or just walking.

Currently, most Child Care Centers can not afford health insurance for their staff and it will be a hardship on centers purchase insurance to cover children injuries and will cause many quality centers to close. Playmates recently inquired on the cost of a policy to cover accidental injury for enrolled students and a minimum policy will be cost over 5,000.00 annually per center that would be if the insurance carrier will write the policy. Public schools require families to purchase or show proof of insurance coverage. I am not sure that would work for child care centers. We must reconsider the accidental injury coverage for child care centers.

9.1.h.4.D A degree in a business, management or administration field and 3 years experience in an early child program or twelve(12) credit hours in early childhood development and three hundred(300) hours of relevant work experience working with young children or 70 approved training hours from WV STARS.

Comment: We should consider staying in alignment with NAEYC and QRIS requirements which would also include the alternate pathway of a degree in business and 3 years experience working in an early childhood setting or 70 approved training hours from WV STARS.

13.5.h.4 Small objects.....not under the age of 4 years old.

Comment: To align with NAEYC and ECERS the age for small objects requirement is children under 3 years old.

13.8 Trampolines are prohibited.

Comment: This should be specific to outdoor large trampolines and/or allow small indoor exercise trampolines. The small exercise trampolines are great indoor activity and often included in a special needs children's individual physical therapy plans to improve gross motor skills. If not specific, licensing specialist will not allow the use of the exercise trampolines.

9.8 9.8. Substitute. The center shall ensure that a substitute meets the minimum qualifications of the

position for which substituting and has completed background checks, or does not work alone if the background checks have been submitted but the results have not been returned. Does not have sole responsibility for a group of children and works under the continuous supervision of, at a minimum,

Comment: It is hard enough to find good substitutes. If they have to meet minimum requirements (ex: Lead Teacher) then we may not be able to gleam any substitutes. An unqualified substitute who is trained and working with a qualified teacher in the classroom is a lot better than no one at all. Teachers do get sick and have family emergencies!

14.17. Children between the ages of two years and school age shall be limited to using screenmedia not more than thirty minutes per week and for educational or physical activity use only:

Comment :I am all for limiting “screen time” but if you let children use the computer 10 minutes per day that is 50 minutes per week. It would be impossible to monitor technology per child down to minutes per week. 10, 15 or 20 minutes per day would be easier to monitor.

Helen Post-Brown
Sunbeam Early Learning Center
1654 Mary Lou Retton Drive
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304-366-8590
Fax: 304-366-5006
E-Mail: Sunbeamccc@aol.com
Web Site: www.sunbeamearlylearningcenter.com
...since 1980

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Tuesday, July 12, 2011 10:50 AM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/12/2011 10:49:52 AM

Rule Selections:

Child Care Center Licensing Requirements

Comment: After reviewing the proposed licensing standards, I have several concerns that I would like everyone to consider and please respond during the public comment period (www.wvdhhr.org and look for the link in the middle of the page) by JULY 24th, 2011.

9.8 change the definition of substitute to require a substitute to have the minimum qualifications of the person they are substituting for (so if your lead teacher is absent for the day you need a lead teacher substitute....) 11.3.d time out is being prohibited for any child under age 4
13.5.H.2 Fall zone for inside gross motor equipment must be secured to floor (this would eliminate mobile mats) Issues previous addressing passive media(television) have been changed to "screen time" which will include computers and all technology 14.17.F limits "screen time" to 30 minutes PER WEEK. So this means no educational computer programs and you would have to figure out how to limit this to 30 minutes per child per week?? "Sorry you can't use the computer area Thursday because you used it Monday.."

Name:

Address: , , West Virginia

Phone:

Chambers, Beth H

From: Jbarkerplaymates@aol.com
Sent: Tuesday, July 12, 2011 10:43 AM
To: Chambers, Beth H
Subject: Fwd: [WVCCU Mass Contact] licensing revision

Beth,
This is a list of concerns from Child Care Center Directors.

What is the process for public comment? How are the comments considered and what happens? I think most of these comments are legitimate concerns. Especially, the substitute. I am not sure it would always be possible to cover lead positions at the same level on short notices without a sub list, which most don't have access to. Let me know a response to send out to the larger group about the comments process. Thanks

On a different note, I was thinking maybe we could get a small group together to complete the draft of after-school standards to take to the full committee.

Thanks
Jeanette

From: Colagrosso@suddenlink.net
To: Colagrosso@suddenlink.net
Sent: 7/11/2011 12:31:33 P.M. Eastern Daylight Time
Subj: [WVCCU Mass Contact] licensing revision

You were sent a group e-mail from the WVCCU website.

After reviewing the proposed licensing standards, I have several concerns that I would like everyone to consider and please respond during the public comment period (www.wvdhhr.org and look for the link in the middle of the page) by JULY 24th, 2011.

9.8 change the definition of substitute to require a substitute to have the minimum qualifications of the person they are substituting for (so if your lead teacher is absent for the day you need a lead teacher substitute....)
11.3.d time out is being prohibited for any child under age 4
13.5.H.2 Fall zone for inside gross motor equipment must be secured to floor (this would eliminate mobile mats)
Issues previous addressing passive media(television) have been changed to "screen time" which will include computers and all technology
14.17.F limits "screen time" to 30 minutes PER WEEK. So this means no educational computer programs and you would have to figure out how to limit this to 30 minutes per child per week?? "Sorry you can't use the computer area Thursday because you used it Monday.."

Please remember this is not a complete list of changes. I urge all of you to completely review the changes and remember once the comment period is over it is too late to complain!

Chambers, Beth H

From: Craythorne, Deidre W
Sent: Tuesday, July 12, 2011 9:06 AM
To: Chambers, Beth H
Cc: Pack, Michael L
Subject: FW: 2012-13 Draft State Plan Public Comment Submission - 7/12/2011 7:44:55 AM

I believe this person meant for this to go to you.

-----Original Message-----

From: DHHR Do Not Reply [mailto:dhhrdonotreply@wv.gov]
Sent: Tuesday, July 12, 2011 7:45 AM
To: Pack, Michael L; Craythorne, Deidre W
Subject: 2012-13 Draft State Plan Public Comment Submission - 7/12/2011 7:44:55 AM

Comments: I was notified through WVCCU of the following changes that I as a manager of a child development center have issue with:

9.8-substitute holding same degree as the person they are replacing. It is very difficult for us to find substitutes in this field. People who hold a high degree do not typically want to be on call or work part time. You would be further tying the hands of an already stressed field with high turnover.

13.5.H.2 Fall zones being secured to floors. This could make it very difficult for my center to offer climbing apparatuses for indoor use, and my center is probably one of the wealthier in Harrison County. I would hate to get rid of this for our children when they are still protected using the moveable mats that we place under the edges of the equipment.

Stephanie Coley

Lasting Impressions CDC

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Monday, July 11, 2011 4:53 PM
To: Chambers, Beth H
Cc: Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/11/2011 4:52:32 PM

Rule Selections:

Child Care Center Licensing Requirements

Comment: 14.3.c.3.c

Infants under the age of 12 months required to be outside 2-3 x/day. This requirement will be disruptive to young infants sleeping, eating, and diaper changing routines. Please consider reducing the number of times/day or stating this in a way that respects what the young infant is choosing for his/her schedule on any given day.

14.3.c.4.a

Requiring children 13 months-3 years to be offered 60-90 min/day of vigorous activity. Consider changing the age of children in this regulation. Many children are just learning to walk at 13 months.

14.7.f

How will this screen media limitation of 30 minutes play well with UPK classrooms and the offering of screen media in Creative Curriculum? This will add another task for the teaching staff to track the use of the screen time being used by the children in the classroom.

Name:

Address: , , West Virginia

Phone:

Chambers, Beth H

From: Friends-R-Fun [friendsrfun@frontier.com]
Sent: Monday, July 11, 2011 4:17 PM
To: Chambers, Beth H
Subject: Comments on changes

Dear Beth, First observation – you have made some big changes that impact childcare a lot. Question: Was there even ONE child care director on the committee that made the changes? I am thinking there was not (judging from some of the changes and wording) and if that is the case, would you please consider for future changes that they not be made without input from some director – several would be better. I will send my comments in a bit, after I get them more organized. Why is there such a hurry to run these through? Couldn't more time be allowed and get a committee together that does involve some directors? Judy Olson

P.S. I am also fearful that if there is not much response from directors, that it will be interpreted that there must not be a problem with the changes, so forge ahead and put them through. The real problem could be that, the comment time is brief, especially during the summer when people may be taking time off (it takes me a full week or more to get ready to leave for any time off and more than a week to catch up after getting back), and having to think about adding an extra big job on of reading through Licensing changes that will take a lot of time – can create a real problem and time crunch. That does not factor in the daily emergencies that a director faces with staff turnover, scheduling, issues that come up with children and parents. Those things always have to take priority over paperwork. So please don't interpret a lack of response as an 'all o.k.' sign.

Chambers, Beth H

From: Bobbie Mendenhall [Bobbie.Mendenhall@mail.wvu.edu]
Sent: Monday, July 11, 2011 2:33 PM
To: Chambers, Beth H
Subject: Concerns on Rule Changes

Greetings,

I am the new program director at WVU-P I have a few questions and concerns with the proposed rules.

~Clarifying that liability insurance must include coverage for negligence and injuries- As a larger facility this will not be such an issue but smaller programs may not be able to afford this coverage. Parents are required to have some form of insurance so why is this necessary?

~Requiring a substitute must meet minimum qualifications so that the he/she is not required to work under continuous supervision- Finding substitutes is hard enough. To require that they meet Lead requirements may be next to impossible for the salary we are able to provide subs. I do believe that quality wise it is important to have long term subs meet requirements but for a day here or there this is very difficult to find. Is it possible to have the rule be 2 part. A short term sub and then the long term sub (3 weeks or more) would need to meet qualifications? This will be increasingly difficult when you have a call off due to illness.

~Screen Media- Does this include smart boards? 30 minutes per week is not enough. We have some children who are present in our child care for 11 hours a day. In today's society everything is screen media. Ipads, Computer games, Smart Boards, Electronic Learning Systems, etc. Can I ask where you came up with the 30 minute span? Was this a national recommendation?

Thank you for your time and consideration.
Bobbie

Bobbie Mendenhall
Program Coordinator
Early Learning Center
West Virginia University at Parkersburg
300 Campus Drive
Parkersburg, WV 26104
304-424-8398
FAX: 304-424-8315
Bobbie.Mendenhall@mail.wvu.edu

Chambers, Beth H

From: Dianellos, Jessica L
Sent: Friday, July 08, 2011 12:15 PM
To: Chambers, Beth H
Subject: FW: Public Comment Period

There are some comments below that pertain to the regulations.

Jessica L. Dianellos

Early Care and Education Specialist
Division of Early Care and Education
WV Dept. of Health and Human Resources
350 Capitol Street, Room B-18
Charleston, WV 25301
Phone: (304) 356-4605
Fax: (304) 558-8800
Email: Jessica.L.Dianellos@wv.gov

From: Brenda Cunningham [mailto:brendacunningham1555@yahoo.com]
Sent: Wednesday, July 06, 2011 10:29 PM
To: Dianellos, Jessica L
Subject: Public Comment Period

First, I feel that the Director qualifications should change as follows:

Education - the curriculum that is taught to individuals who take the Early childhood education should include business courses. Every person that I have interviewed to be an assistant director or a site director, the individual states that they do not know how to do the business end of a childcare. The individual only knows how to help me arrange a room for children.

I also feel that an individual with a business degree should be allowed to be a director for a childcare for the reason that most of a director's job is to maintain the finance of the childcare. The business person may receive training from conferences and courses on how to teach children. You can teach a person to teach children but it is hard to teach a person the business side of a childcare.

Due to these lack of qualifications in a Director, I feel that childcares are unable to be successful in managing budgets which in turn creates problems to teach children. The lack of qualifications is also a reason why many childcare centers belly-up.

Second, thing is I feel that the swimming regulations are not been monitored more heavier in the summer months. Most centers rely upon the lifeguards that work as part of the ratio for monitoring their children. The children also do not receive nutrition meals.

*I am glad that they took out the pack-n-plays - they definitely were not good for sleeping.

Third, I feel that there should be more of a rule on Facility care versus childcare centers. I think you should have either childcare centers or in-home cares only. Any childcare that is being done in a building other than a home should be classified as a childcare center and follow the same guidelines.

Thank You

Chambers, Beth H

From: BCF Web Administrator [michael.l.pack@wv.gov]
Sent: Thursday, July 07, 2011 3:08 PM
To: Chambers, Beth H; Dianellos, Jessica L
Cc: Pack, Michael L; Pack, Michael L; Pack, Michael L
Subject: Title 78, Legislative Rule Comment - 7/7/2011 3:07:48 PM

Rule Selections:
Child Care Quality Rating and Improvement System

Child Care Center Licensing Requirements

Comment: 6.7 Risk Management for centers shall include a certificate of coverage for liability insurance (remove) which provides coverage for but not limited to negligence and injury.

Comment: Liability insurance does not cover the injury of children unless there is negligence found at the center or caused by a staff. A policy to cover injury would be separate and very costly. Typically, centers and public school systems, have a written statement in their parent information handbook, stating parents must carry their own health insurance and/or the school or child care center would not be responsible for children's injuries, children fall in their regular routine of the day, running, climbing or just walking.

Currently, most Child Care Centers can not afford health insurance for their staff and it will be a hardship on centers purchase insurance to cover children injuries and will cause many quality centers to close. Playmates recently inquired on the cost of a policy to cover accidental injury for enrolled students and a minimum policy will be cost over 5,000.00 annually per center, that would be if the insurance carrier will write the policy. Public schools require families to purchase or show proof of insurance coverage. I am not sure that would work for child care centers. We must reconsider the accidental injury coverage for child care centers.

9.1.h.4.D A degree in a business, management or administration field and 3 years experience in an early child program or twelve(12) credit hours in early childhood development and three hundred(300) hours of relevant work experience working with young children or 70 approved training hours from WV STARS.

..

Comment: We should consider staying in alignment with NAEYC and QRIS requirements which would also include the alternate pathway of a degree in business and 3 years experience working in an early childhood setting or 70 approved training hours from WV STARS.

13.5.h.4 Small objects.....not under the age of 4 years old.

Comment: To align with NAEYC and ECERS the age for small objects requirement is children under 3 years old.

13.8 Trampolines are prohibited.

Comment: This should be specific to out door large trampolines and/or allow small indoor exercise trampolines. The small exercise trampolines are great indoor activity and often included in a special needs children's individual physical therapy plans to improve gross motor skills. If not specific, licensing specialist will not allow the use of the exercise trampolines.

Thanks,

Jeanette Barker, President, West Virginia Child Care Centers United Executive Director, Playmates Preschools and Child Development Centers

Name: Jeanette Barker

Address: 3603 Piedmont Road, Huntington, West Virginia 25704

Phone: 3046330076

Chambers, Beth H

From: Jbarkerplaymates@aol.com
Sent: Thursday, July 07, 2011 3:03 PM
To: Chambers, Beth H
Cc: colagrossa@suddenlink.net; colagrosso@charter.net; sunbeamccc@aol.com; Jcs0810@aol.com; STopeka@aol.com; pamelashope@aol.com; amandaperdue1321@aol.com; Melissajdawson@aol.com; Kandieharrison@aol.com; letitiahamon@hotmail.com; meredith0329@aol.com; LetitiaRiddell@hotmail.com; GRHILL75@aol.com; gsmith210@aol.com; Chana1980@msn.com; rbarkerplaymates@aol.com; adkelly9@yahoo.com; wvlac@aol.com; traceenicole1@aol.com; dennismithband@hotmail.com; anwhuntington@aol.com; pre-kteacher@hotmail.com; Jkach1@aol.com; tinawatts01@aol.com; summerbundle@yahoo.com; wbellomy81@yahoo.com; professorprose@aol.com; millers@marshall.edu; little_bear_daycare@hotmail.com; littlebeardaycare@frontier.com
Subject: Public Comments on Child Care Licensing Changes

Beth,

6.7 Risk Management for centers shall include a certificate of coverage for liability insurance (remove) which provides coverage for but not limited to negligence and injury.

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13.8 Trampolines are prohibited.

Comment: This should be specific to out door large trampolines and/or allow small indoor exercise trampolines. The small exercise trampolines are great indoor activity and often included in a special needs children's individual physical therapy plans to improve gross motor skills. If not specific, licensing specialist will not allow the use of the exercise trampolines.

Thanks,

Jeanette Barker, President, West Virginia Child Care Centers United
Executive Director, Playmates Preschools and Child Development Centers

Chambers, Beth H

From: Dianellos, Jessica L
Sent: Tuesday, July 05, 2011 8:45 AM
To: Chambers, Beth H
Subject: FW:

I believe the comment below is in regards to the licensing rule.

Jessica L. Dianellos
Early Care and Education Specialist
Division of Early Care and Education
WV Dept. of Health and Human Resources
350 Capitol Street, Room B-18
Charleston, WV 25301
Phone: (304) 356-4605
Fax: (304) 558-8800
Email: Jessica.L.Dianellos@wv.gov

-----Original Message-----

From: gallihugh@citlink.net [mailto:gallihugh@citlink.net]
Sent: Monday, July 04, 2011 12:38 PM
To: Dianellos, Jessica L
Subject:

The new insurance requirements would cause a great hardship to many centers, who already struggling.

Michele

Chambers, Beth H

From: stjoekids@comcast.net
Sent: Friday, July 01, 2011 4:52 PM
To: Chambers, Beth H
Subject: objection to proposal

Beth ,

I oppose any further requirements in regards to Insurance. Our centers are not at capacity and therefore any extra expenses on our programs would be detrimental, We can barely afford the Insurance we now have. What else can we do to stop this proposal ??

Thanks,

Karen Morgan, Director

Chambers, Beth H

From: colagrosso@suddenlink.net
Sent: Friday, July 01, 2011 3:32 PM
To: Chambers, Beth H
Subject: licensing revision comments

I am very concerned and opposed to the language used to clarify that liability insurance must include negligence and injuries. No agency, including public schools, carries insurance to cover injuries. If a child is injured, their medical insurance would cover their medical expenses. Currently, over 90% of West Virginias children are now insured. Therefore, this requirement simply puts additional money in the hands of the insurance company for unnecessary coverage. This will cause a financial hardship on childcare centers. As for negligence, if a childcare center is negligent, a family could sue and a centers liability insurance would then handle this claim/lawsuit. Adding the additional language will again lead to additional riders on policies and are not necessary and will cause an unreasonable hardship on childcare centers.

Melissa Colagrosso
A Place To Grow Children's Center
Fayette County
(304) 469-6687

Chambers, Beth H

From: Duseyland Day Care [duseyland@frontier.com]
Sent: Thursday, April 07, 2011 1:42 PM
To: Chambers, Beth H
Subject: Cribs

Beth,

This is Ronda From Duseyland Day Care. Are they really going to phase out mesh side cribs? These are the types of cribs that we use for our nap time. They are easy to store and easy to use. The only time that these beds are used is for nap time we do not use them just to put children in like a play pen. If we would have to put 12 wooden cribs in our infant room there would not be any room for the children. I hope that who ever is making this decision keeps us small daycares in mind. If we will not be able to use these cribs we will have to loose our infant program which inturn will close us down.

Thank You for your time!

Ronda Reynolds
Director
Duseyland Day Care

FILED

2011 JUL 27 PM 12:11

TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HUMAN SERVICES

OFFICE OF THE CLERK
WEST VIRGINIA
LEGISLATURE
STATE OF WEST VIRGINIA

SERIES 1
CHILD CARE CENTERS LICENSING

§78-1-1. General.

1.1. Scope. -- This rule established standards and procedures for the licensure of child care centers under the provisions of West Virginia Code §49-2B-1 et seq., and related federal and state code. This rule should be read in conjunction with the provisions of West Virginia Code §49-2B-1 et seq. The West Virginia Code is available in public libraries and on the Legislature's web page, <http://www.legis.state.wv.us/>.

1.2. Authority. -- West Virginia Code §49-2B-4.

1.3. Filing Date. -- ~~May 20, 2009.~~

1.4. Effective Date. -- ~~May 20, 2009.~~

§78-1-2. Application and Enforcement.

2.1. Application. This rule applies to any individual, firm, corporation, association or organization, public or private, that operates child care centers for the care of thirteen (13) or more children on a nonresidential basis.

2.2. Enforcement. This rule is enforced by the Secretary of the Department of Health and Human Resources.

§78-1-3. Definitions.

~~3.1. Active Media. -- Materials that the child can control while participating in an activity such as taking pictures with cameras, making audio or video tapes, playing video games or working on a computer.~~

3.21. Adequate Supervision. -- The observation, oversight, and guidance of the individual child or groups of children, by the staff member taking responsibility for the ongoing activity of each child or group of children so that the staff member is close enough to intervene, if necessary, to protect the child from harm. Adequate supervision requires the staff member's physical presence, knowledge of the child's program of activities, individual needs, habits, interests and special problems, if any, and the acceptance of accountability for the child's or groups of children's care.

3.32. Approved Training. -- Training that has been approved by the Secretary.

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3.34. Approved Training Source. -- A training provider that has been approved by the Secretary.

3.45. Authorization and Release for Protective Services Record Check. -- A document provided by the Department, signed by a center's prospective staff member or employee, granting permission to conduct a search of Department records related to his or her involvement in child or adult abuse and neglect allegations, or other investigations documented by the Secretary.

3.56. Certificate of Approval. -- A written certificate issued by the Secretary stating that a child care center operated by the state meets requirements in accordance with the terms and conditions of the certificate and this rule.

3.67. CDA (Child Development Associate) Credential. -- The national early childhood credential administered by the Council for Early Childhood Professional Recognition.

3.78. Child. -- For the purpose of this rule, an individual who is less than 13 years of age.

3.89. Child Abuse and Neglect. -- Physical injury, mental or emotional injury, sexual abuse, sexual exploitation, the sale or the attempted sale, or negligent treatment or maltreatment of a child by a parent, guardian or custodian responsible for the child's welfare, under circumstances which harm or threaten the health and welfare of the child.

3.940. Child Care Center. -- A facility maintained by the state or any county or municipality thereof, or any agency or facility operated by an individual, firm, corporation, association or organization, public or private, for the care of thirteen (13) or more children for child care services in any setting, if the facility is open for more than 30 days per year per child, except:

3.409.a. A kindergarten through grade twelve education program that is operated by a public school or that is exempt from the compulsory school attendance law by the state department of education;

3.409.b. A West Virginia Pre-K classroom operated by a county Board of Education in a public school setting;

3.409.c. Any other kindergarten, preschool or school program that operates with sessions not exceeding four (4) hours per day for any child;

3.409.d. An individual or facility that offers occasional care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services or engaging in other business or personal affairs;

3.409.e. Hospitals or other medical facilities that are primarily used for temporary care of children for treatment, convalescence, or testing; and

3.409.f. Persons providing care solely for children related to them.

3.4410. Continuous Supervision. -- The availability and responsibility of a staff member to assist

with child care at all times.

3.4211. Core Knowledge and Core Competencies of Early Childhood Educators. -- The sets of observable skills and knowledge that represent common standards of satisfactory practice in the early childhood field in the state of West Virginia.

3.4312. Criminal Identification Bureau Record (CIB). -- The State Police documentation, as a result of a fingerprinting process, that identifies a person who has been arrested or convicted of criminal behavior.

3.4413. Day Camp. -- A school-age program that is operated when school is not in session, for no more than twelve (12) hours per day and is not primarily outdoor based.

3.4514. Designated Activity Area -- Room divisions within the center that define limits and reduce distractions. These divisions shall include a temporary wall or physical barrier that is at least three (3) feet in height.

3.4615. Direct Supervision. -- When a qualified staff member is physically present in the same room, area, or vehicle with the child or group of children, visually monitoring the interactions of the children.

3.4716. Disinfect. -- Eliminate virtually all germs from an inanimate surface through the use of chemicals or heat.

3.4817. Driver. -- A staff member who transports center children more than three (3) times per week or a staff member whose job function is to transport children served by the child care center.

3.4918. Early Care and Education Field. -- An area of study that relates to child development, early childhood from birth to eight (8) years of age, child and family studies, early childhood special education or other early childhood fields.

3.2019. Evening Care. -- Care provided after seven o'clock in the evening to a child who does not stay overnight.

3.2120. Field Trip. -- An excursion or special outing away from the site where program activities regularly occur.

3.2221. Full-time Director. -- A director who is present at the center for a minimum of one-half (½) of the hours the center is in operation during a seven day period, or thirty-five (35) hours during the same seven day period, whichever is less.

3.2322. GED. -- A certificate verifying passage of a test of General Educational Development recognized as equivalent to a high school diploma.

3.2423. Governing Body. -- The individual owner of the center or the group of persons that have the administrative control and legal authority to set policy and oversee operations of a child care center.

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3.2524. Group. -- A specific number of children, distinct from the larger population of children, who regularly meet together and interact with each other and with one (1) or more specific staff members, in an assigned space. The size of the group and required number of staff are determined by the staff:child ratio set out in this rule.

3.2625. Level I Field Trip. -- An excursion or outing to a destination that is thirty (30) minutes or less from the center or from the site where program activities regularly occur.

3.2726. Level I Water Activity. -- Any activity occurring in or near water eighteen (18) inches deep or less.

3.2827. Level II Field Trip. -- An excursion or outing to a destination that is more than thirty (30) minutes from the center or from the site where program activities regularly occur.

3.2928. Level II Water Activity. -- Any activity occurring in or near water with a depth of more than eighteen (18) inches.

3.3029. License. -- A written certificate issued by the Secretary authorizing a person, corporation, partnership, voluntary association, municipality, county, or any agency thereof, to operate a child care center in accordance with the terms and conditions of the license and this rule.

3.3130. Licensed Capacity. -- The maximum number of children permitted in a center.

3.3231. Licensed Health Care Provider. -- For the purpose of this rule, an individual who holds a license to practice in West Virginia as a physician, Doctor of Medicine or (MD), Doctor of Osteopathy (DO) or, physician's assistant (PA), chiropractor or nurse practitioner .

3.3332. Licensee. -- The holder of a license or certificate of approval obtained from the Secretary to operate a child care center in West Virginia.

3.33. Medical Plan of Care. -- A document that provides specific health care information, including any medications, procedures, precautions, or adaptations to diet or environment that may be needed to care for a child with chronic medical conditions or special health care needs. Care plans also describe signs and symptoms of impending illness and outline the response needed to those signs and symptoms.

3.34. Medication Error. --

3.34.a. Failure to administer a dose of medication; or

3.34.b. The administration of a medication:

3.34.b.1. To the incorrect child;

3.34.b.2. In the incorrect dosage;

3.34.b.3. At the incorrect time, other than within thirty (30) minutes before or after the

scheduled time;

3.34.b.4. In the incorrect form;

3.34.b.5. By the incorrect method or route; or

3.34.b.6. That is incorrect itself.

3.35. Night Time Care. -- Care provided to the child who stays during nighttime hours or overnight, which may include the time usually designated as sleep time.

3.3736. Out-of-school Time Program. -- A program that offers activities to children before and after school, on school holidays, when school is closed because of an emergency, and on school calendar days set aside for teacher activities.

3.3837. Parent. -- The biological or adoptive parent or parents of a child, a person or persons, or the Department, who has legal custody of a child, or the lawful guardian of a child.

~~3.39. Passive Media. -- Materials that the child cannot control while participating in an activity such as watching television, films and video tapes.~~

3.4038. Person-in-Charge. -- The qualified staff member with responsibility for the daily operation of the center at any specific time.

3.4139. Plan of Correction. -- A written agreement between the Department and a center, approved prior to implementation, that outlines the steps the center shall take to correct deficiencies identified by the Secretary through an inspection or the investigation of a complaint.

3.4240. Practicum Contact Hour. -- A period of supervised experience recognized for credit toward a credential by an educational institution or similar organization.

3.4341. Qualified Staff. -- A staff member who has a high school diploma or GED and meets the requirements under this rule for the position of director, assistant director, lead teacher, teacher, assistant teacher, or teaching assistant.

3.4442. Registered Apprenticeship Certificate for Child Development Specialist. -- A nationally recognized credential awarded by the United States Department of Labor for the successful completion of a combination of classroom and on-the-job training.

3.4543. Related Field. -- As approved by the Secretary, an area of study that may be associated with the early child care and education field, including education, social work, recreation and leisure studies, nursing, counseling, psychology, and administration related to the care and education of the child from birth through twelve (12) years of age.

3.4644. Relevant Work Experience. -- Work that is directly with or on behalf of children from birth through twelve (12) years of age, and their families in areas of supervision, leadership or management;

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program coordination, development or regulation; training, instruction or technical assistance; or evaluation or research. Private or family child care is considered relevant work experience only if the care was regulated care and can be verified.

3.4745. Responsible Person. -- A parent, center staff member, or other person designated by the parent in written information, to drop off or pick up the child.

3.4846. Sanitize. -- Destroy pathogens on food contact surfaces, such as utensils, cups and glasses, through the use of processes involving chemicals or heat that do not pose a threat to food safety.

3.4947. Secretary. -- The Secretary of the Department of Health and Human Resources or his or her designee.

3.5048. School -Age Child. -- A person who is between five (5) and thirteen (13) years of age and is eligible to attend school or is enrolled in grades K-12.

3.5149. School-Age Program. -- Services provided by a center for the care and supervision for school-age children. These programs include summer recreation camps, day camps and out-of-school time programs.

3.50. Screen Media. -- For the purpose of this rule, forms of communication or entertainment viewed on a screen such as television, computer monitors, digital gaming equipment, etc.

3.51. Serious Occurrence. -- An event that either harms or could potentially harm a child. It may include:

3.51.a. A child who dies while in care;

3.51.b. A child who is injured while in care to the extent that the child requires medical care beyond immediate first aid;

3.51.c. A diagnosed reportable communicable disease that is introduced in the center;

3.51.d. A medication error that occurs;

3.51.e. A legal action involving or affecting the operation of the center;

3.51.f. A serious violation of a licensing requirement, such as use of physical punishment or failure to supervise; or

3.51.g. A report given to Child Protective Services of suspected abuse or neglect of a child at the center.

3.52. Special Activities. -- Potentially dangerous organized recreation that require special technical skills, safety equipment, safety regulations, or involve fire or heat-producing equipment. These include, but are not limited to, Level II water activities, archery, gymnastics, karate, horseback riding, bicycling,

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rock climbing, spelunking, hiking and cookouts.

3.53. Staff Member. -- Any center personnel, including substitutes and student interns, whether or not he or she receives compensation.

3.54. Staff:Child Ratio. -- A relationship which describes the number of children that one (1) qualified staff member or substitute is permitted to supervise. The number varies according to the ages and developmental levels of the children and the types of activities in which they are participating.

3.55. Statement of Criminal Record. -- A Department provided document signed by a person of his or her arrests or convictions and the authorization for the Department to do a search for a criminal record and release the findings to the center.

3.56. Substitute. -- An individual who is present at the center to maintain the staff:child ratio when a qualified staff member is absent.

3.57. Summer Recreation Camp. -- A school age program that operates during the summer months, whose program orientation is primarily recreational, and of which eighty percent (80%) of the program occurs outdoors.

3.58. Support Staff. Staff who carry out duties not regularly involving the supervision of children.

3.59. Teen Aide. -- An individual who is between thirteen (13) and eighteen (18) years of age who works with or without compensation under the direct supervision of a qualified staff member who has a minimum of the qualifications of an assistant director or lead teacher.

3.60. Time-out Period. - A length of time when the child is removed from regular activities as a consequence for specific behavior.

3.61. Training. -- Classroom instruction and programs of self-instruction including distance education provided through a variety of media, seminars, workshops, conferences, on-the-job training, and mentoring designed to impart knowledge or skills.

3.62. Type I Center. -- A child care center with a capacity of thirty (30) or fewer children.

3.63. Type II Center. -- A child care center with a capacity of thirty-one (31) to sixty (60) children.

3.64. Type III Center. -- A child care center with a capacity of sixty-one (61) or more children.

3.65. Universal Precautions. -- Procedures to be followed for infection control in all situations to prevent the transmission of blood borne germs that may be spread through blood or body fluids that might contain blood.

3.66. Use Zone. -- The surface under and around a piece of equipment onto which the child falling from or exiting from that the equipment is expected to land.

3.67. Variance. -- A written declaration by the Secretary that a certain requirement of this rule may be satisfied in a manner different from that set forth in the rule.

3.68. Vigorous Activity. -- Rhythmic, repetitive physical activity that uses large muscle groups, causing a child to breathe rapidly and only enabling them to speak in short phrases. Toddlers and preschoolers generally accumulate vigorous physical activity over the course of the day in very short bursts (fifteen to thirty seconds).

~~3.6869.~~ Volunteer. -- An individual who provides a direct service to the center for two (2) or more hours a week on a scheduled basis, without compensation, and is eighteen (18) years of age or older; provided, that a parent of an enrolled child working directly with his or her own child is not considered a volunteer under this rule.

~~3.6970.~~ Waiver. -- A written declaration by the Secretary that a certain requirement may be treated as inapplicable in a particular circumstance.

~~3.7071.~~ West Virginia Training Certificate in Early Care and Education (WVTCECE). -- A certificate for completing one hundred twenty (120) hours of training in the core competencies of early childhood education awarded through the WV STARS Professional Development System.

§78-1-4. Licensing Information and Provisions.

4.1. Requirements for a License or Certificate of Approval.

4.1.a. Before establishing or operating a child care center:

4.1.a.1. A center operator and each member of the governing body shall verify in writing that he or she has read this rule and is responsible for compliance with its requirements;

4.1.a.2. A child care center, other than one operated by the state, shall obtain a license from the Secretary; and

4.1.a.3. A child care center operated by the state shall obtain a certificate of approval from the Secretary.

4.1.b. A license or certificate of approval is valid for up to two (2) years from the date of issuance, as determined by the Secretary, unless revoked or modified to provisional status.

4.1.c. A license or certificate of approval is valid only for the center and its location named in the application and is not transferable.

4.1.d. A licensee shall post the license or certificate of approval in a conspicuous place in the center.

4.1.e. If the ownership of a center changes, the new owner shall apply for a license and shall not operate until an initial license is issued.

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4.1.f. Before the location of a center changes, the licensee shall:

4.1.f.1. Inform the Secretary of the planned change at least sixty (60) days prior to the relocation; and

4.1.f.2. Apply for a new license or certificate of approval and shall not operate at the new location until an initial license or certificate of approval is issued.

4.2.. Application for a License or Certificate of Approval.

4.2.a. For each center to be licensed or approved, an applicant shall submit a completed application as prescribed by the Secretary.

4.2.b.. A licensee shall submit an application for renewal of a license or certificate of approval to the Secretary not less than sixty (60) days prior to the expiration of the current license.

4.3. Waivers and Variances.

4.3.a. A center shall comply with the provisions of West Virginia Code §49-2B-1 et seq., the requirements of this rule, terms of its license or certificate of approval and any plan of correction, unless a written waiver or variance has been granted by the Secretary. A center may not obtain a waiver of the requirements of this rule on the basis of the inability to achieve compliance with the rule.

4.3.b. A request for a variance or waiver shall be submitted to the Secretary in writing. The request shall include:

4.3.b.1. The specific requirement of this rule requested to be waived or varied; and

4.3.b.2. The reason or reasons for seeking a waiver or variance.

4.3.c. A waiver or variance of a specific provision of this rule may be granted by the Secretary only if the following criteria are met:

4.3.c.1. The center has documented and demonstrated that the provision of the rule is inapplicable in a particular circumstance, or that the center complies with the intent of the provision in the rule in a manner not permitted by the rule;

4.3.c.2. The health, safety, and well-being of a child is not endangered; and

4.3.c.3. The waiver or variance agreement contains provisions for a regular review of the waiver or variance.

4.3.d. The waiver or variance agreement is subject to immediate cancellation if a center fails to comply with the stated terms of this rule.

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4.4. Amendment of a License or Certificate of Approval.

4.4.a. A current licensee shall apply for an amendment of a license or certificate of approval when:

4.4.a.1. Implementing an additional program or changing a program described in the statement of purpose; or

4.4.a.2. Seeking to change the licensed capacity of the center.

4.4.b. In addition to a completed application requesting an amendment, a licensee shall submit to the Secretary in writing any of the following that apply to the change:

4.4.b.1. A copy of the center's revised statement of purpose as described in Subsection 6.2 of this rule;

4.4.b.2. The qualifications of the director and staff members;

4.4.b.3. A copy of the center's revised plan for meeting program requirements and staff:child ratios;

4.4.b.4. A floor plan reflecting changes to the structure being used by a child care center;

4.4.b.5. A positive inspection report from the State Fire Marshal following any changes to the center's operation and premises;

4.4.b.6. A positive inspection from the county Department of Health, including the Department of Health Child Care Center Inspection Report and the Department of Health Inspection Report for Food Service Establishments;

4.4.b.7. A written menu review-evaluation or a menu developed by a dietician or nutritionist and certificate of approval as evidenced by a copy of the Child Care Center Menu Checklist or a written statement or proof of participation in ~~from the~~ Child and Adult Care Food Program administered by the Office of Child Nutrition in the Department of Education; and

4.4.b.9. A Pest Management Report as required by the West Virginia Department of Agriculture.

4.5. The Secretary may issue the following types of licenses or approvals:

4.5.a. An initial six month license or certificate of approval for applicants establishing a new service;

4.5.b. A regular or renewal license for a period of up to two (2) years for a licensee in compliance with this rule;

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4.5.c.. A provisional license for a licensee not in full compliance with this rule, but does not pose a significant risk to children. A provisional license expires six (6) months from the date of issuance, and may not be consecutively reissued.

4.6. Conditions of a License or Certificate of Approval. As a condition of issuing a license or a certificate of approval the Secretary may:

4.6.a. Limit the age, problems, type of behaviors, physical or mental conditions of children allowed admission to a particular center;

4.6.b. Prohibit intake of any children; or

4.6.c. Reduce the number of children that the center is licensed to receive.

4.7. Denial or Revocation of a License or Certificate of Approval.

4.7.a. The Secretary may deny, refuse to renew, or revoke a license or certificate of approval if the center materially violates any provisions of West Virginia Code §49-2B-1 et seq, violates any terms or conditions of the license or certificate of approval, or fails to maintain established requirements of child care.

4.7.b. When the Secretary denies, refuses to renew, or revokes a license or certificate of approval, the licensee shall not operate the center without a court order pending administrative or judicial review.

4.8. Closing of Center by the Secretary.

4.8.a. If the Secretary finds that the operation of a child care center constitutes an immediate danger of serious harm to the children served by the center, the Secretary shall issue an order of closure terminating the operation of the center.

4.8.b. A center ordered closed by the Secretary may not operate pending administrative or judicial review without a court order.

4.9. Administrative and Judicial Review.

4.9.a. Administrative and judicial review are subject to the provisions of §29A-5-1 et seq. of the West Virginia Code.

4.9.b. A decision issued by the Secretary may be made effective from the date of issuance. Immediate relief may be obtained upon a showing of good cause made by a verified petition to the circuit court of Kanawha County or the circuit court of any county where the affected center is located.

4.9.c. The pendency of administrative or judicial review shall not prevent the Secretary from obtaining injunctive relief pursuant to the West Virginia Code §49-2b-5.

§78-1-5. Inspection and Investigation.

5.1. An applicant or licensee shall permit the Secretary access to the center to conduct announced and unannounced inspections of all aspects of the center's operation and premises.

5.2. A licensee shall provide all information requested by the Secretary.

5.3. When an inspection or complaint investigation finds non-compliance with this rule, the Secretary may require a plan of correction.

5.4. The Secretary may request the licensee to submit the results of a health examination, psychological examination or drug and alcohol screening result on the licensee or any personnel of the center if good cause is found during an inspection or investigation.

§78-1-6. Governance.

6.1. Administrative Structure.

6.1.a. General. The Licensee is legally accountable for the operation of the center and shall:

6.1.a.1. Ensure the center's compliance with the provisions of West Virginia Code §49-2B-1 et. seq. and the requirements of this rule.

6.1.a.2. Implement a statement of purpose as described in this rule; and

6.1.a.3. Develop policies and procedures to be kept in an administrative manual as described in this section to guide the operation of the center.

6.1.b. A center shall have a governing body to ensure that the responsibilities of the licensee are carried out.

6.1.b.1. The governing body shall be comprised of at least one (1) parent of a child currently served by the center, or when no parent is available for the governing body, a parent advisory committee shall be established as described in this section;

6.1.b.2. No staff member, staff family member, or employee of a public agency that regulates or makes eligibility decisions for the center may serve, but the director may be an ex-officio non-voting member;

6.1.b.3. The governing body shall meet at least four (4) times in a twelve month period and preserve in writing the minutes of each meeting, including but not limited to, the meeting's date and time, members in attendance, issues considered, and decisions made.

6.1.b.4. The governing body shall appoint a full-time director to manage the daily operations at each site where a center operates; submit the director's qualifications in writing for approval by the Secretary prior to employment; conduct an annual evaluation of the director; and oversee any necessary

action regarding the director's job performance.

6.1.c. An unincorporated, individual licensee (owner) may act as the governing body. In addition to the requirements listed in paragraph 6.1.b.4. of this subsection, the owner shall appoint a parent advisory committee comprised of parents of children currently served by the center that meets at least four (4) times in a twelve month period.

6.2. Statement of Purpose.

6.2.a. An applicant or licensee shall ensure that each center has a written statement of purpose that includes:

- 6.2.a.1. The type of care and programs offered by the center;
- 6.2.a.2. The goals and objectives for each of the offered programs;
- 6.2.a.3. The ages of the children served;
- 6.2.a.4. The licensed capacity;
- 6.2.a.5. The scheduled days and hours of operations; and
- 6.2.a.6. The admission and discharge policies.

6.2.b. An applicant or licensee shall ensure that the statement of purpose is:

- 6.2.b.1. Available to staff members at all times; and
- 6.2.b.2.. Reviewed with all staff members whenever changes are made.

6.3. Administrative Manual.

6.3.a. An applicant or licensee shall ensure that each center has an administrative manual that includes the center's policies and procedures with the dates they were implemented or revised, regarding:

- 6.3.a.1. Confidentiality and information disclosure and secure disposition of records;
- 6.3.a.2. Admission and discharge;
- 6.3.a.3. Personnel:
 - 6.3.a.3.A. Employment;
 - 6.3.a.3.B. Termination;
 - 6.3.a.3.C. Use of uncompensated personnel;

6.3.a.3.D. Background checks including criminal convictions and abuse and neglect findings;

6.3.a.3.E. Compensation, including a statement of coverage or exemption of Workers Compensation and Unemployment Compensation;

6.3.a.3.F. Circumstances under which the center reserves the right to require drug and alcohol screening for drivers, other staff and volunteers; and

6.3.a.3.G. Periodic performance evaluations;

6.3.a.4. Behavior management;

6.3.a.5. Reporting of abuse;

6.3.a.6. Health policies for staff and children, including addressing, at a minimum, immunization, any parental objection to treatment, exclusion and re-admittance of the child with a communicable illness, and medication administration the health requirements of this rule;

6.3.a.7. Attendance;

6.3.a.8. Emergencies;

6.3.a.9. Transportation; and

6.3.a.10. Grievance procedures.

6.3.b. An applicant or licensee shall ensure that the administrative manual is:

6.3.b.1. Available to staff members at all times; and

6.3.b.2. Reviewed with all staff members when changes are made.

6.4. Standards of Ethical Conduct. A center shall not misrepresent or operate a program in any way that is misleading, deceptive or illegal.

6.5. Grievance Procedure. A center shall develop and implement a written grievance procedure for families and employees. The procedure shall be written in clear and simple language and shall include at least the following provisions:

6.5.a. A center shall ensure that families and employees can express concerns or make complaints without fear of retaliation;

6.5.b. The center shall explain the procedure to parents and employees and obtain written acknowledgment that an explanation of the procedure has been provided.

6.6. Records and Information Disclosure.

6.6.a. Records. A center shall maintain the confidentiality of all records, including:

6.6.a.1. Child records according to the following guidelines:

6.6.a.1.A. A center where the child is currently enrolled shall keep the child's records on the premises and have a procedure for the maintenance, security and disposition of records;

6.6.a.1.B. A center shall store and secure records against loss, tampering, or unauthorized use and establish procedures restricting access to records and unauthorized use under the provisions of West Virginia Code §61-3C-1 et seq.; and

6.6.a.1.C. A center shall retain records for a minimum of three (3) years following the child's discharge.

6.6.a.2. Staff records according to the following guidelines:

6.6.a.2.A. A center shall keep all current staff records on file on the premises and have a procedure for the maintenance, security and disposition of records;

6.6.a.2.B. A center that operates at more than one (1) site shall keep current staff members' emergency medical information on file at each location where a staff member is employed and at a central location; and

6.6.a.2.C. A center that operates at more than one (1) site may keep all staff records at a central location as long as the central location is in West Virginia.

6.6.b. Information Disclosure.

6.6.b.1. A center shall keep all information about the child confidential and shall only disclose it to staff members caring for the child in accordance with the center's policies and procedures.

6.6.b.2. A center shall obtain the written consent of the child's parent before disclosing information about the child, including photographs, audio or video recordings, or verbal statements about the child, except when disclosing information to the Secretary or his or her designee.

6.7 Risk management for the center shall include liability insurance, which provides coverage for, but is not limited to, negligence and injuries.

§78-1-7. The Child and Family.

7.1. Admission, Discharge, Basic Rights and Records.

7.1.a. A center shall develop, implement and maintain an admission policy and procedure

ensuring that prior to the admission of the child to the center:

7.1.a.1. The parent completes and submits an application for child care services;

7.1.a.2. The director or designated staff member documents in the child's file, a meeting with the parent to exchange information about the center's programs and the specific needs of the child, including information about any individual characteristics and personality factors that may influence the child's behavior and well-being at the center, and any special family considerations that are relevant to child care;

7.1.a.3. A center provides to the parent a copy of its statement of purpose and discusses it with the parent;

7.1.a.4. A center provides information about its liability insurance coverage including information regarding coverage or non-coverage of accidents or injuries; and

7.1.a.5. A center informs the parent of the details of the agreements to be signed by the parent, including, but not limited to, an agreement that:

7.1.a.5.A. The center prohibits corporal punishment on its premises and during off-site center activities while the child is participating;

7.1.a.5.B. The parent has access to the center when his or her child is in attendance; and

7.1.a.5.C. The parent has received and discussed a copy of the center's policies on:

7.1.a.5.C.1. Behavior management and the reporting of child abuse and neglect;

7.1.a.5.C.2. Immunization, parental objections to treatment, the dismissal and re-admittance to the center of the child with a communicable illness, procedures for notifying the child's parent in advance of its policies on the exclusion and re-admittance of ill children, procedures for informing the parent of each child of the exclusion policy, and medication administration;

7.1.a.5.C.3. Confidentiality and information disclosure; and

7.1.a.5.C.4. Meal and nutrition policy;

7.1.a.5.C.5. Emergency evacuation and sheltering procedures; and

7.1.a.5.C.6. Discharge policies.

7.1.b. The center shall ensure the parent has access to a copy of this rule;

7.1.c. The center shall inform the parent of its requirements for signed permission prior to the child's participation in field trips, water activities and other special activities; and

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7.1.d. The center shall inform the parent of his or her right to report to the Secretary any complaints related to compliance with the provisions of West Virginia Code §49-2B-1 et seq. and the requirements of this rule.

7.2. Discharge Policies. A center shall develop, implement and maintain policies and procedures, including criteria, for a child's discharge from the center:

7.2.a. When the parent withdraws the child from a center;

7.2.b. When a center asks a parent to remove his or her child; and

7.2.c. When a center informs the parent in advance of the request for discharge, except in cases of emergencies or investigations related to child abuse and neglect.

7.3. Basic Rights. A center shall ensure that the child and the child's family have equal access to programs regardless of race, religion, ethnicity, gender, ability, or sexual orientation.

7.4. Information About Child. For each child enrolled at a center, the center shall maintain a file in one central location that includes the following current information:

7.4.a. The child's name, address, gender and date of birth;

7.4.b. The name of the child's parent, and the parent's home and work telephone numbers and addresses;

7.4.c. The name, physical address and telephone number of at least one (1) additional individual who can assume responsibility if the center cannot locate the parent;

7.4.d. The names, addresses and telephone numbers of the child's sources of primary medical care and emergency medical care;

7.4.e. The child's health insurance coverage and policy number;

7.4.f. A signed permission from the parent for emergency medical treatment and transportation;

7.4.g. A signed permission to release the child to someone other than the parent, with the names, addresses and telephone numbers of the one (1) person or several persons permitted to take the child from the center;

7.4.h. Information and special instructions from the child's parent or licensed health care provider about any special dietary or other needs because of a medical or other reason;

7.4.i. A signed permission from the parent to take photographs or make audio and/or video recording of the child;

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7.4.j. Legal verification of custody when one (1) parent is the sole legal guardian of the child by virtue of a court proceeding;

7.4.k. Health records as described in Subsections 15.1 and 15.2 of this rule;

7.4.l. The dates of enrollment and discharge;

7.4.m. Scheduled days and hours of attendance; and

7.4.n. The name and telephone number of the school-age child's school.

7.5. Information for emergency purposes. A center shall keep two (2) copies of the information in Subdivision 7.4.a. through 7.4.h. of this rule, with the parent's original signature on both copies, and shall keep:

7.5.a. One (1) copy in the center's files to be easily accessible at all times; and

7.5.b. The other copy in the center's emergency file, described in this rule, where it is available to accompany the child when the child is off-site.

7.6. Exchanging information with the parent. The center shall develop a plan for ongoing communication with the parent that includes: ~~a pre-admission meeting in which the center:~~

7.6.a. A pre-admission meeting in which the center ~~discusses~~ with the parent an oral or written system for exchanging information regularly about the child including the child's health and any events at home or at the center that may influence the child's behavior and well being; ~~and~~

7.6.b. Providing a signed incident/accident report when an incident or accident resulted in first aid or extra care;

7.6.c. Providing a signed serious occurrence report as required in §78-1-19.12; and

7.6.d. Provides ~~Providing~~ the parent opportunities to volunteer at the center.

§78-1-8. Staffing.

8.1. This section applies to all center personnel including the private owners, volunteers, and parents who receive compensation for their duties or who are used by the center to meet staff:child ratios.

8.2. Persons at a child care center who are not subject to this rule include:

8.2.a. An adult who is in the center for brief periods in the normal course of carrying out business or professional activities and is not left alone with the children; or

8.2.b. A parent of an enrolled child who is at the center only for the purpose of performing

parental responsibilities in relation to his or her own child.

8.3. Staffing Procedures.

8.3.a. A center shall provide each new staff member with a notification letter that includes his or her effective date of hire, position title, qualifications, duties and responsibilities at the time of hiring.

8.3.b. A center shall conduct performance evaluations:

8.3.b.1. On all staff at least once a year; and

8.3.b.2. On all newly employed staff members and staff members new to their positions; ~~initially~~, at three (3) months, six (6) months, and twelve (12) months.

8.3.c. A center shall provide each staff member with:

8.3.c.1. ~~a~~ written copy of his or her most recent evaluation, signed by the center director and the evaluated staff member; and

8.3.c.2. ~~a continuing education~~ professional development plan based on the evaluation.

8.3.d. A center shall maintain a file for each staff member that includes:

8.3.d.1. A current job description;

8.3.d.2. ~~Written references~~ Documentation that references have been verified; including three (3) references for the center director and two (2) references for other staff members; ~~and~~

8.3.d.3. Records of employment, including a duplicate copy of all performance evaluations; ~~and~~

8.3.d.4. Verification of educational and staff qualifications.

8.4. Staff Character and Background.

8.4.a. A center shall use staff members and volunteers with:

8.4.a.1. A good reputation and character;

8.4.a.2. Sufficient education, training and experience to provide the skills necessary for carrying out the essential functions of his or her job with or without reasonable accommodation;

8.4.a.3. Sound judgment, emotional maturity, and an understanding of children;

8.4.a.4. A demonstrated ability to perform assigned tasks;

8.4.a.5. The ability to correct hazards that might harm the health, safety and well-being of the

children;

8.4.a.6. The ability to work with children without mistreatment or abuse;

8.4.a.7. The ability to encourage children and to provide them with a variety of learning and social experiences appropriate to the age of the children;

8.4.a.8. The ability to support children's physical, emotional, psychological, social and personal development; and

8.4.a.9. The ability to communicate effectively and to respect confidentiality.

8.4.b. No person shall be on the premises or have contact with the children in care whose health or behavior would harm the children, or who is under the influence of a controlled substance, including alcohol or a legal pharmaceutical that impairs his or her functioning.

8.4.c. Other than the exceptions cited in Subdivision 8.4.e. of this subsection, a center shall ensure that a criminal background investigation is performed on each staff member and volunteer through the West Virginia Department of Military Affairs and Public Safety, Criminal Identification Bureau (CIB) and an authorized agency in a previous state of residence, if applicable, and shall keep the following information on file:

8.4.c.1. A completed, signed and witnessed Statement of Criminal Records. A copy of the statement shall be on file no later than the date of hire;

8.4.c.2. A CIB records check, except as described in this section; and

8.4.c.3. A report of a Federal Bureau of Investigation (FBI) records check, for any staff member who has lived outside West Virginia within the past five (5) years, or has established residence outside West Virginia for more than one (1) year since turning eighteen (18) years of age;

8.4.d. A center shall ensure that each staff member and volunteer has a completed, signed, and dated Authorization and Release for Protective Services Record Check. A copy of the release shall be on file and the original submitted to the Department no later than the date of hire. ~~The release shall be on file no later than the date of hire.~~

8.4.e. A center does not require a criminal records check on the following:

8.4.e.1. A new staff member who has on file at the center documentation of the required criminal history investigations within the previous twelve (12) months;

8.4.e.2. An individual not associated with the center, but contracted to provide lessons or other services for brief periods to the children while center staff are present; or

8.4.e.3. A parent who transports children on an irregular basis for field trips without pay or

compensation.

8.4.f. Prior to receiving the CIB and FBI reports required under this rule on any staff member, a center shall have in place a safety plan that ensures that the staff member works under direct supervision and is not left alone with a child.

8.4.g. The Secretary may require a CIB or FBI check for good cause.

8.4.h. For individuals over thirteen (13) and under eighteen (18) years of age, prior to permitting them direct contact with the children on a regular basis, a center shall have on file a signed affidavit from the individual's parent stating that his or her child has never been arrested or convicted of an offense against a person.

8.4.i. A center shall update the following reports in each staff member's file:

8.4.i.1. The Statement of Criminal Record every two (2) years; and

8.4.i.2. The completed CIB and, if required, FBI report at least every five (5) years;

8.4.i.3. The Authorization and Release for Protective Services Record Check at least every five (5) years.

8.5. Hiring Prohibitions

8.5.a. A center shall not employ or use an individual who is currently under indictment or charged with any crime, is currently on parole or probation for a felony conviction, or has been convicted or entered a plea of guilty or no contest to any of the following:

8.5.a.1. A violent felony crime including, but not limited to, abduction, rape, sexual assault, homicide, hate crimes, kidnapping, felonious assault or battery;

8.5.a.2. Child or adult abuse or neglect, or the exploitation of a child or an incapacitated adult;

8.5.a.3. Domestic violence or spousal abuse;

8.5.a.4. Felony arson;

8.5.a.5. A felony or misdemeanor crime against a child or incapacitated adult;

8.5.a.6. Felony conviction for Driving Under the Influence (DUI) or drug-related offenses within the last ten (10) years;

8.5.a.7. Neglect or abuse by a care giver; or

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8.5.a.8. Pornography and sexual offense crimes involving children or incapacitated adults, including purchase or sale of a child, incest, sexual abuse, or indecent exposure.

8.5.b. A center shall not hire or continue to employ or use any individual who is determined by the Department to have abused or neglected a child or incapacitated adult. The effective date for this requirement is July 1, 2003. The date of the finding of abuse or neglect may occur prior to July 1, 2003.

8.5.c. A center may not employ or use an individual who has entered a plea of guilty or no contest, or has been convicted of a felony, or two (2) or more misdemeanor crimes that are not listed in Subdivision 8.5.a. unless the Secretary grants a waiver.

8.5.d. A center may not use an individual who failed to disclose a conviction on a Statement of Criminal Record or failed to disclose a finding of abuse or neglect on an Authorization and Release for Protective Services Record Check unless the Secretary grants a waiver.

8.5.e. A center shall have policies and procedures that include protocols requiring:

8.5.e.1. A staff member or volunteer to report his or her criminal arrest, charge, indictment, or conviction for a criminal offense to the center director within twenty-four (24) hours;

8.5.e.2. A staff member to report to the center director that he or she is subject of an abuse or neglect investigation;

8.5.e.3. The center to notify the Secretary of the staff member's report within twenty-four (24) hours; and

8.5.e.4. That the center prohibit a staff member or volunteer who is accused of having sexually abused or otherwise injured a child or incapacitated adult from caring for or having contact with children pending the outcome of an investigation.

8.5.f. If a center chooses to advocate for a waiver for an employee, then it shall have policies and procedures regarding waivers that do not conflict with Department policies. The policy must include procedures for:

8.5.f.1. Informing the staff member of the waiver process and time limit for requesting a waiver;

8.5.f.2. Providing a statement of support for the waiver request from the center director;

8.5.f.3. Ensuring that the staff member does not have contact with, or is removed from contact with, the children until the Secretary reaches a decision on the waiver unless the licensee, staff member and the Department agree to a written safety plan that permits the staff member to continue in a staff position until the Secretary reaches a decision.

8.5.g. A center shall secure from the employee a recent health assessment performed not more

than 90 days prior to the date hired for the employee and signed by a licensed health care provider. The health assessment shall be on file no later than 30 days from the first date of employment. A health assessment for a volunteer shall be on file if the volunteer is scheduled to work at least forty (40) hours per month in the center. The health assessment shall include:

8.5.g.1. A significant health history which the center needs to know in order to protect the health of the employee or the health and safety of children in care;

8.5.g.2. A physical examination, including vision and hearing screening;

8.5.g.3. A statement that the prospective staff member has no known condition or disease which would interfere with the proper care of children; and

8.5.g.4. A tuberculosis risk assessment that is repeated annually or a tuberculosis screening by the Mantoux method, if a screening is indicated by the tuberculosis risk assessment.

8.5.h. For staff currently employed, a center shall keep on file a health assessment that is updated every two (2) years.

8.6. Staff Responsibilities, Qualifications and Training Requirements.

8.6.a. A center shall assign one (1) individual the responsibility for monitoring and implementing training and maintaining training records.

8.6.b. A center shall require all staff to meet training requirements and pre-service education qualifications other than that noted in requirement 8.6.c. of this subsection. Provided: Staff persons who have remained employed by the center since July 1, 2003 and have been in continuous employment in that position or one requiring greater qualifications in a child care setting since July 1, 1998, shall be considered to meet the qualification of their position.

8.6.c. A center may offer an applicant for a lead teacher or teacher position conditional employment for a period of up to six (6) months pending completion of the pre-service education and training requirements described in this section.

8.6.d. Prior to or during the first week of employment and prior to having sole responsibility for a group of children, a center shall provide orientation to the staff member that includes a review of:

8.6.d.1. Licensing, other regulatory requirements, and a center's administrative manual;

8.6.d.2. Policies, staff duties and professional development plans;

8.6.d.3. Policies and procedures for confidentiality and information disclosure, behavior management, reporting child abuse and neglect, and emergencies;

8.6.d.4. Policies and procedures for basic sanitation and infection control;

8.6.d.5. Policies and procedures for safety, including prevention of injury both indoors and outdoors, and fire safety, including the use of fire extinguishers;

8.6.d.6. The statement of purpose;

8.6.d.7. The daily schedule of the center and the specific schedule for the group of children to which the staff person is assigned, including the planned program of activities, routines and transitions; and

8.6.d.8. Communication at a center, including procedures to inform staff of any special dietary or other needs of the children for whom they will be responsible.

8.6.e. A center shall document that orientation training was provided by having the staff member and center director sign a statement acknowledging receiving orientation training and shall keep the statement in the staff member's file.

8.6.f. A center shall ensure that all staff members receive approved training in:

8.6.f.1. Cardiopulmonary Resuscitation (CPR) and First Aid. Within six (6) months of employment or use staff members shall have current CPR certification appropriate to the age of the children in care and current first aid training. Except in the first year of employment or use, training in CPR and First Aid is in addition to the requirement for annual professional development.

8.6.f.2. Abuse Recognition and Prevention. Within six (6) months of employment or use, staff members shall have training in child abuse recognition and prevention. Training in child abuse recognition and prevention may be used to meet the requirement for annual professional development described in this section.

8.6.g. Prior to administering medication, the qualified staff member shall have training from an approved training source in medication administration. Training in medication administration may be used to meet the requirement for annual professional development described in this section.

8.6.h. A center shall ensure that prior to assuming management duties, including supervising other qualified staff members, assisting the director or serving as the designated person-in-charge of a center, a qualified staff member:

8.6.h.1. Completes the requirements for orientation training and management orientation training that includes a detailed review of the center's administrative manual and management practices; and

8.6.h.2. Co-signs with the director a statement which is kept in the staff member's file acknowledging he or she received management training.

8.6.i. A center that operates or plans to operate programs for children twenty-four (24) months of age and under shall meet the requirements of this Subdivision for staff training:

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8.6.i.1. Prior to starting the program, shall ensure that each qualified staff member caring for the child has received a minimum of forty (40) hours of approved training related to the care of children twenty-four (24) months of age and under, and shall submit documented evidence of the training to the Secretary.

8.6.i.2. For an existing program which has been approved to expand the program or experiences staff turnover, shall ensure that within six (6) months of beginning to care for children twenty-four months of age and under, each qualified staff member shall have a minimum of forty (40) hours of approved training related to the care of children twenty-four (24) months of age and under. Until all staff members meet the requirements of this section, the center shall ensure:

8.6.i.2.A. That one (1) qualified staff member to act as a mentor and resource, who has completed the minimum approved training, is present in the infant/toddler program for at least half of the operating hours daily;~~That at least one (1) qualified staff member, who has completed the minimum approved training, is present in the program for at least seven (7) hours daily during the time when most children under 24 months of age are present;~~

8.6.i.2.B. That each staff member has a written plan for the completion of training that is agreed upon during orientation; and

8.6.i.2.C. That the center develops a mentoring plan which provides for weekly mentoring by a qualified and trained staff person for each staff member that has not completed approved training.

8.7. Professional Development

8.7.a. All qualified staff shall complete fifteen (15) hours of approved training within the first year of employment according to the following:

8.7.a.1. A director shall have six (6) hours in management training within the required fifteen (15) hours; and

8.7.a.2. Qualified staff members shall have six (6) hours of training related to the age group of children for which they care, within the required fifteen (15) hours.

8.7.b. All qualified staff shall apply for credentialing on the WV STARS Career Pathway.

8.7.c. All qualified staff shall complete the approved training which is necessary to keep the credential current.

8.7.d. All staff in positions that are not qualified staff positions shall have training within the first six (6) months of employment related to their responsibilities, renew child abuse and neglect recognition every three years and keep first aid and CPR certification current.

§78-1-9. Staff Responsibilities and Qualifications.

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9.1. The Director shall:

9.1.a. Manage the daily operations of the center, including administering finances and human resources;

9.1.b. Supervise the teaching staff and the daily activities of support staff who provide services to the center and conduct a staff meeting at least once a month;

9.1.c. Make curricular decisions and plans and supervise all aspects of the children's program;

9.1.d. Communicate with staff members, children, parents, and the public;

9.1.e. Communicate with the Department and regulatory agencies to ensure compliance with all requirements;

9.1.f. Keep a record of any hours and days he or she has regular responsibility for an assigned group of children in a Type I or Type II center;

9.1.g. Not have regular responsibility for an assigned group of children in a Type III center;

9.1.h. Have the following qualifications:

9.1.h.1. Be at least twenty-one (21) years of age, provide evidence of at least one (1) year of relevant work experience; and have a minimum of a high school diploma or equivalent and;

9.1.h.2. In a Type I center, have a minimum of:

9.1.h.2.A. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; or

9.1.h.2.B. A total of ten (10) years of relevant work experience.

9.1.h.3. In a Type II center, have a minimum of:

9.1.h.3.A. A registered Apprenticeship Certificate for Child Development Specialist;

9.1.h.3.B. Twenty-eight (28) college credits, with at least nine (9) credit hours in early childhood development; or

9.1.h.3.C. Fifteen (15) years of relevant work experience.

9.1.h.4. In a Type III center, have a minimum of:

9.1.h.4.A. An associate's degree in early care and education;

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9.1.h.4.B. A bachelor's or associate's degree in a related field with twelve (12) credit hours in early childhood development or early childhood education and ninety (90) practicum contact hours in the field of early childhood;

9.1.h.4.C. A bachelor's degree in a related field and a total of two (2) years of relevant work experience; or

9.1.h.4.D. A degree in a business, management or administration field with twelve (12) credit hours in early childhood development and three hundred (300) hours of relevant work experience working with young children.

9.1.i. Designate a person-in-charge to perform the duties of the director during all hours of operation when the director is not present at the center. The person-in-charge shall be a qualified staff member.

9.2. Assistant Director or Lead Teacher.

9.2.a. The duties and role of assistant director or lead teacher may be shared by the director and a teacher.

9.2.b. The assistant director or lead teacher may have responsibility for supervision, care and education of children and may be regularly assigned to a group of children.

9.2.c. The assistant director or lead teacher shall:

9.2.c.1. Plan and adopt programming that conforms to the core competencies of early childhood education and may implement daily program activities;

9.2.c.2. Coordinate the activities of teachers, assistant teachers, teaching assistants, and assist the director with designated activities;

9.2.c.3. Be at least twenty-one (21) years of age and have a minimum of one (1) year of relevant work experience and one of the following additional qualifications:

9.2.c.3.A. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children;

9.2.c.3.B. A total of two (2) years of relevant work experience;

9.2.c.3.C. A registered Apprenticeship Certificate for Child Development Specialist, or twenty-eight (28) college credits, with at least nine (9) credit hours in early childhood development.

9.3. A teacher shall:

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9.3.a. Have responsibility for the supervision, care and education of children and be regularly assigned to a group of children;

9.3.b. Practice the core competencies of early childhood educators, and plan and implement daily program activities;

9.3.c. Coordinate the activities of assistant teachers and teaching assistants, and may assist the director, assistant director or lead teacher with designated activities; and

9.3.d. Be at least eighteen (18) years of age and have a minimum of one (1) year of relevant work experience and have one of the following additional qualifications:

9.3.d.1. A West Virginia Training Certificate in Early Care and Education (WVTCECE) or its equivalent;

9.3.d.2. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; or

9.3.d.3. A total of two (2) years of relevant work experience.

9.4. Assistant Teacher. An assistant teacher shall:

9.4.a. Practice the core competencies of early childhood educators;

9.4.b. Work with young children with guidance from a qualified staff member who qualifies, at a minimum, as a teacher;

9.4.c. Coordinate daily activities and supervise teaching assistants in the absence of the teacher; and

9.4.d. Have the following qualifications:

9.4.d.1. Be at least eighteen (18) years of age and have a minimum of one (1) year of relevant work experience;

9.4.d.2. Have a West Virginia Training Certificate in Early Care and Education (WVTCECE) or its equivalent.

9.5. Teaching Assistant. A teaching assistant shall:

9.5.a. Assist other qualified staff members with the care and education of the child, but shall not have responsibility for a group of children;

9.5.b. Work under the continuous supervision of a qualified staff member who qualifies, at a minimum, as an assistant teacher;

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9.5.c. Have the following qualifications:

9.5.c.1. Be at least eighteen (18) years of age; and

9.5.c.2. Be enrolled in the WVTCECE program or its equivalent.

9.6. Teen Aide. A teen aide shall:

9.6.a. Be at least two (2) years older than the oldest child in the group with whom he or she is working; and

9.6.b. Not be left alone with a child other than his or her own child.

9.7. Student Intern. A center that uses student interns shall ensure that:

9.7.a. The student intern fulfills the requirements of an educational or training program;

9.7.b. The student intern performs duties under the direct supervision of a qualified staff member who has at least the qualifications of an assistant teacher;

9.7.c. The student intern receives periodic supervision from the educational or training program teacher-coordinator;

9.7.d. The student intern is not left alone with a child other than his or her own child;

9.7.e. A copy of the student intern's training plan and training agreement developed jointly by the educational or training institution and the center are on file at the center.

9.8. Substitute. The center shall ensure that:

9.8.a. A substitute has the appropriate background checks;

9.8.b. A substitute used in a position for less than two weeks does not have sole responsibility for a group of children and works under the continuous supervision of, at a minimum, an assistant teacher; and

9.8.c. A substitute filling a position for more than two weeks meets the minimum qualifications of the position for which substituting. A substitute meeting the qualifications of the position does not require continuous supervision if the position does not require it.

9.9. Support Staff. The center shall ensure that support staff have appropriate qualifications for providing services to the center and meet the general and health requirements set forth in this rule.

9.10. Driver. A driver shall:

9.10.a. Be at least 21 years of age;

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9.10.b. Have a valid driver's license that authorizes the driver to operate the vehicle being driven;

9.10.c. Upon hire, have evidence of a safe driving record for the five year period prior to hiring and have no record of DUI related convictions for a five year period;

9.10.d. Not be impaired to drive at the time of transporting children including impairment caused by prescription medication;

9.10.e. Submit to a drug and alcohol testing if required by center policy; and

9.10.f. Not be used if he or she refuses a required drug and alcohol test or tests positive.

9.11. Volunteer. The center shall ensure that prior to providing a direct service to the center, a volunteer:

9.11.a. Is not less than eighteen (18) years of age;

9.11.b. Receives direct supervision from a qualified staff member who is not less than twenty-one (21) years of age; and

9.11.c. Is not left alone with a child other than his or her own child.

§78-1-10. Supervision of Children in Groups.

10.1. A center shall ensure that:

10.1.a. The children have adequate supervision at all times;

10.1.b. Staff members are awake and performing their duties during work hours;

10.1.c. When a play area is used that is accessible to the public, the boundaries of the play area are clearly marked and known to the children;

10.1.d. The children remain in areas approved for daily program activities and do not go into other areas including the kitchen, unless it is part of the planned, supervised experience.

10.1.e. Children are accompanied by staff when utilizing public restroom or restrooms at the center that the general public is permitted to use.

10.2. Children shall be assigned to distinct groups according to the following:

10.2.a. Each group shall be assigned a room or area of a room as a home base, even if the group moves to other areas, inside and outside a center, for daily activities;

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10.2.b. When more than one (1) group of children up to school-age uses the same room, a center shall divide the room into a designated activity area for each group;

10.2.c. A center shall separate indoor areas regularly occupied by older children from children twenty-four (24) months of age and under;

10.2.d. A center shall ensure that a common outdoor area is not regularly used at the same time by groups of school-age children and by groups five (5) years of age and younger.

10.2.e. During brief times, not to exceed thirty (30) minutes, when children are normally arriving and departing, and for short periods of scheduled activities such as eating, the center may combine groups of children, including groups of children twenty-four (24) months and under and groups of older children; and

10.2.f. During short periods of time for special occasions such as field trips, the center may combine school-age groups of children with children over the age of twenty-four (24) months.

10.3. Staff:Child Ratios.

10.3.a. When children are on the premises, a center shall ensure that at least two (2) staff members are on duty at all times.

10.3.b. When only one (1) qualified staff person is required to meet ratios at the beginning and end of the day, the second staff member may be a support staff member who is readily available in case of emergencies. A center shall ensure that while children are on the premises, the qualified staff member has completed a course in child first aid and has current certification in CPR appropriate to the age of the children in care.

10.3.c. A center shall assign each group of children to a qualified staff member or team of qualified staff members, maintaining at all times the staff:child ratios required under this rule. When groups are combined, a center shall continue to maintain the staff:child ratios required under this rule.

10.3.d. When more than one (1) qualified staff member is assigned to a group, a center shall designate one (1) qualified staff member as group leader with responsibility for planning the activities of the group to ensure that each child in the group receives developmentally appropriate care and adequate supervision on a day-to-day basis.

10.3.e. When only one (1) qualified staff member is assigned to a group, there shall be a plan enabling the qualified staff member to call a second staff member for help without leaving the group.

10.3.f. In determining and maintaining the staff:child ratio, a center shall not include any qualified staff member who is performing other duties such as cooking, bookkeeping, or life-guarding; or another individual with designated responsibility for a special activity; or a support staff member who is not directly working with the children except in an emergency situation when staff may be reassigned to supervise the children.

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10.3.g. In determining and maintaining the staff:child ratio, a center shall have a plan to ensure that a qualified substitute is available if needed and is available when a staff person is absent for longer than a continuous two (2) week period.

10.4. A student intern who is at least 17 years of age, a Youth Apprentice, and in the second year of classes in the Child Development Specialist program approved by the WV Department of Education may count in the staff:child ratio, but may not work alone.

10.5. A center shall group children and consider their ages when determining the staff:child ratio as follows:

10.5.a. A center shall count each child twelve (12) years of age and under who is present and being cared for in the child care center, including a child of the director or a staff member, and shall not consider a teen aide to be a child;

10.5.b. When children are at the center, the center may use either a single grouping or a mixed-age combination to calculate the ratio according to the following:

10.5.b.1. For each single-age group at a center, the center shall maintain the staff:child ratio and group size described in Table A of Appendix 78-1 ~~FE~~ of this rule;

10.5.b.2. For each mixed age group at a center, the center shall maintain the staff:child ratio and group size described in Table A of Appendix 78-1 ~~FE~~ of this rule for the youngest child in the group; and

10.5.b.3. When providing evening and nighttime care, a center shall maintain the staff:child ratio and group size described in Table A of Appendix 78-1 ~~FE~~ of this rule. In addition, a center shall ensure that:

10.5.b.3.A. At least one (1) qualified staff member is in each room visually supervising the children at all times and checking at least hourly on each sleeping child; and

10.5.b.3.B. Each qualified staff member required to meet the staff:child ratio is on the premises and within calling distance of the rooms occupied by the children.

10.5.c. Special circumstances with staff:child ratio are:

10.5.c.1. During nap time or sleep time:

10.5.c.1.A. For groups of children twelve (12) months of age and under, a center shall ensure that each qualified staff member required to meet the staff:child ratio described in Table A of Appendix 78-1 ~~FE~~ of this rule, is present in the nap or sleep area and able to see and hear all of the children at all times;

10.5.c.1.B. For groups of children over twelve (12) months of age who participate in a nap-time program, a center shall ensure that at least one (1) qualified staff member is in each area visually

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supervising the children and each qualified staff member required to meet the staff:child ratio is on the premises and within calling distance of the areas occupied by the children;

10.5.c.2. During transportation:

10.5.c.2.A. At all times when transporting a child, a center shall ensure that no child is unattended in a vehicle;

10.5.c.2.B. During Pick-up and Drop-off service:

10.5.c.2.B.1. A second staff person or volunteer shall accompany the driver during routine transportation for the purpose of pick-up and drop-off service when the vehicle will transport more than two children and at least one of those children is under the age of two years;

10.5.c.2.B.2. A second staff person or volunteer shall accompany the driver during routine transportation for the purpose of pick-up and drop-off service when the vehicle will transport more than four children of any age.

10.5.c.2.B.3. There shall be a staff or designated responsible person present outside the vehicle to supervise when children are loading or unloading from a vehicle.

10.5.c.3. Water activities.

10.5.c.3.A. When a child is participating in a Level I or Level II water activity, except a swimming lesson with a qualified instructor, a center shall maintain staff:child ratios described in Table B of Appendix 78-1 ~~FE~~ of this rule; and

10.5.c.3.B. When two (2) or more children twenty-four (24) months of age and under are participating in a Level I or Level II water activity in a mixed age group, except a swimming lesson with a qualified instructor, the center shall ensure that at least two (2) qualified staff members are present;

10.5.c.4. Field Trips.

10.5.c.4.A. A center shall ensure that when a child is participating in a Level I field trip, that the staff:child ratio is maintained in accordance with Table A of Appendix 78-1 ~~FE~~ of this rule and that at least one staff member or volunteer accompanies one (1) qualified staff member who must be present at all times;

10.5.c.4.B. A center shall ensure that when a child is participating in a Level II field trip that the staff:child ratio is maintained in accordance with Table A of 78-1 ~~FE~~ of this rule and that at least two (2) qualified staff members are present at all times.

§78-1-11. Supervision of the Individual Child.

11.1. Guidance, Behavior Management, and Discipline. A center shall:

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11.1.a. Develop, implement and maintain policies and procedures for behavior management that include the prohibitions described in Subsection 11.4. of this rule;

11.1.b. Ensure that the guidance, behavior management and discipline practices are constructive and educational in nature, appropriate to each child's age and circumstances, and in keeping with the center's policies and procedures;

11.1.c. Ensure that staff members are aware of behavior issues relating to an individual child, and treat behavior problems individually and in private;

11.1.d. Delegate behavior management to qualified staff members who have an ongoing relationship with a child; and

11.1.3. Ensure that when it appears that a child is developing a pattern of unacceptable behavior, the staff member with the delegated responsibility for the child discusses the child's behavior in private with the director and informs the child's parents.

11.2. Guidance. At all times, staff members are responsible for providing positive guidance that is appropriate to each child's age, understanding and circumstances. Staff members shall:

11.2.a. Teach by example;

11.2.b. Recognize and encourage acceptable behavior;

11.2.c. Make eye contact with the child and kneel or sit beside the child whenever possible when speaking to the child;

11.2.d. Supervise with kindness, understanding and firmness;

11.2.e. Define clear limits, set fair and consistent rules and, when appropriate, permit an older child to participate in the development of rules and procedures;

11.2.f. Help a child develop self control to assume responsibility for his or her own actions;

11.2.g. Guide a child's activities in an orderly manner;

11.2.h. Prepare a child for his or her next activity a few minutes ahead of time, and allow the child a brief transition time before beginning the new activity;

11.2.i. Help a child avoid long waiting periods when the child has nothing to do by ensuring that the environment includes materials that hold his or her attention; and

11.2.j. Help a child feel successful at tasks and provide options if chosen tasks prove to be too difficult.

11.3. Behavior Management and Discipline. When a behavior problem arises, qualified staff

members shall:

- 11.3.a. Redirect the child to alternative behavior or other activities;
 - 11.3.b. Encourage the child to control his or her own behavior, cooperate with others and solve problems by talking things out;
 - 11.3.c. Speak so that the child understands that feelings are acceptable, but inappropriate behaviors and actions are not;
 - 11.3.d. Use appropriate time-out periods only as necessary for a child to calm down or gain control of his behavior and not for over one (1) minute for each year of a child's age. Time-out may be used only for children over the age of ~~three (3) years~~ four (4) years unless a younger child has time-out included in a multidisciplinary behavior plan;
 - 11.3.e. Ensure that during a time-out period the child is within sight and hearing of a staff member in a safe, lighted and well-ventilated space;
 - 11.3.f. Maintain perspective about the minor misbehavior of the school-age child and recognize that every infraction does not warrant staff attention or intervention; and
 - 11.3.g. Take action that relates to inappropriate behavior and ensure that any action that is taken is without bias and in proportion to the child's act.
- 11.4. Handling Behavior Problems. Staff members and other adults at a center shall not handle behavior problems by:
- 11.4.a. Subjecting a child to physical punishment of any kind, including, but not limited to, shaking, striking, spanking, swatting, thumping, pinching, popping, shoving, spitting, biting, hair pulling, yanking, slamming, excessive exercise or any cruel treatment that may cause pain;
 - 11.4.b. Putting anything in or on a child's mouth as punishment;
 - 11.4.c. Restraining a child physically or by placing the child in confining equipment or using any other restrictive means such as straps or ties. Only in extreme circumstances to protect the child or others around him may a staff person use a gentle method of physically holding the child. The staff person must be an experienced staff member and one that is known to the child and shall only restrain the child by any means other than a firm grasp around a child's arms or legs and then for only as long as is necessary for the child to regain control;
 - 11.4.d. Subjecting a child to psychological punishment of any kind, including, but not limited to, ridicule, humiliation, or negative remarks about the child or the child's family, including remarks about race, gender, religion, or cultural background;
 - 11.4.e. Using harsh or profane language, or actual or implied threats of physical punishment;

11.4.f. ~~Forcing or bribing a child to eat nor use food as a reward or punishment; Punishing or threatening a child in association with food, rest or toilet training;~~

11.4.g. ~~Punishing or threatening a child in association with rest or toilet training;~~

11.4.h. Isolating a child without supervision or placing the child in a dark area such as a box, closet, or similar confined space;

11.4.hi. Permitting a child to discipline other children;

11.4.ij. Punishing an entire group for the actions of one child or a few children; or

11.4.kj. Seeking or accepting parental permission to use physical punishment or other actions prohibited by this rule.

11.5. Difficult Behavior Plan. When a child's behavior problems continue over time, the director and staff member with delegated responsibility shall develop and implement a plan for managing the difficult behavior. The director shall ensure that:

11.5.a. When possible, a parent participates in the development of the plan and, in all cases, the center shall provide the parent with a copy of the completed plan and regular written reports of the child's progress;

11.5.b. When necessary and appropriate, other professionals also participate in the development and implementation of the plan and, when necessary, receive written reports of the child's progress; and

11.5.c. Staff members cooperate in implementing the plan and keep on file at the center a copy of the plan, a record of the steps taken during implementation, and the child's progress in meeting the goals of the plan.

11.6. Abuse and Neglect. A center shall develop, implement and maintain policies and procedures for the reporting of child abuse and neglect that include:

11.6.a. The definition of child abuse and neglect;

11.6.b. The requirement to report immediately, in accordance with West Virginia Code 49-6A-1 et seq., any suspected incident of child abuse and neglect to the director or designated person-in-charge, and to Child Protective Services; or when the staff member believes that the director or designated person-in-charge would not or has failed to report the suspected incident to the Child Abuse Hotline, 1-800-352-6513; and

11.6.c. A statement posted at the center in clear public view stating that the center reports suspected child abuse and neglect to Child Protective Services.

11.7. Informing Staff about Behavior Management and Report Procedures. The center shall inform staff about behavior management procedures and child abuse and neglect reporting by:

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11.7.a. Providing each staff member a copy of its policies on behavior management and the reporting of child abuse and neglect, and providing revised policies when changes occur;

11.7.b. Obtaining a signed and dated acknowledgement that the staff member has read and understands the policies or revised policies; and

11.7.c. Placing the signed acknowledgement statement in the staff member's file.

11.8. Informing Parents about Behavior Management and Reporting Procedures. At the time of a child's admission, a center shall inform parents about the center's behavior management procedures and child abuse and neglect reporting requirements by:

11.8.a. Providing to each child's parent written copies and an oral explanation of a center's policies on behavior management and the reporting of child abuse and neglect, and updating parents on policy changes when they occur;

11.8.b. Obtaining a signed and dated acknowledgement that the center has explained the policies and provided the parent with a copy. The statement shall bear the child's name, the date of enrollment, and, if different, the date the parent signs the statement; and

11.8.c. Placing the signed statement in the child's file for as long as the child is enrolled.

§78-1-12. Space Requirement.

12.1. Licensed Capacity. A center shall ensure that at all times the maximum number of children participating in activities on or off the premises does not exceed the licensed capacity determined by the separately computed area of indoor space, outdoor space and bathroom facilities, not to exceed the lowest number of the three computations. Personnel and group size may be factored into the maximum capacity for certain age groups.

12.2. Indoor Space.

12.2.a. A center shall provide a minimum of thirty-five (35) square feet per child of usable indoor space that is approved by the Secretary for daily program activities. A center shall make the rooms and areas of the center that are not approved for a child's use inaccessible to the children.

12.2.b. Indoor space for daily program activities does not include any space that is not available for a child's activities including space occupied by columns, vestibules and corridors; fire escapes; areas used exclusively for eating; areas used exclusively for napping; bathrooms; staff lounges; adult work areas including offices, laundry and furnace rooms; kitchens; permanently equipped isolation areas; storage spaces, and areas occupied by furniture except for areas that have:

12.2.b.1. Children's chairs and tables;

12.2.b.2. Adult sized comfortable chairs or a couch;

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12.2.b.3. Moveable play equipment and shelves for children's activities; or

12.2.b.4. A surface for changing diapers.

12.2.b.5. For centers that have a separate and distinct designated activity area for children under twelve (12) months of age, cribs may be considered part of that useable indoor space, provided that no more than thirty (30) percent of the useable space is occupied by cribs.

12.2.c. A center shall not provide activity space in a basement area unless the basement area is approved by the State Fire Marshal.

12.3. Outdoor Space.

12.3.a. A center shall provide an outdoor activity area that includes a minimum of seventy-five (75) square feet of space per child, or if the outdoor activity area has less than that a center shall:

12.3.a.1. Establish an outdoor activity schedule for rotating groups of children to meet the minimum space requirement and to ensure that each child has an opportunity to play outdoors each day; and

12.3.a.2. Submit to the Secretary for his or her approval a copy of the current outdoor activity schedule and shall use the outdoor space only after receiving the Secretary's written approval that shall be displayed at the center for public view.

12.3.b. A center shall:

12.3.b.1. Provide an outdoor activity area that is on its premises or immediately adjacent to its premises; or

12.3.b.2. When neither of the options in Paragraph 12.3.b.1. of this rule is possible, shall submit a plan for the Secretary's approval for alternate outdoor activity space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

12.4. Bathrooms. The center shall provide one (1) flush toilet and one (1) lavatory per fifteen (15) children, excluding children in diapers who are not receiving toilet training.

§78-1-13. Furnishings, Equipment and Materials.

13.1. General Requirements. A center shall provide furnishings, equipment and materials that:

13.1.a. Are available in sufficient quantity for the number of children;

13.1.b. Are appropriate in type, arrangement and use for the developmental needs of the children;

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13.1.c. Are durable and safe;

13.1.d. Are in good repair and free of sharp points or corners, pinch or crush points, splinters, protruding nails or bolts, loose rusty parts, hazardous small parts that may be swallowed, identified poisons or paint that contains lead, and are regularly inspected by staff for potential hazards;

13.1.e. Are regularly cleaned and disinfected;

13.1.f. Are evaluated at regular intervals by the director and teacher to ensure their ongoing appropriateness for the age and number of children; and

13.1.g. Support the children's linguistic and intellectual development, and assist in providing for their physical, emotional, psychological, social and personal needs.

13.2. Specific furnishings shall include:

13.2.a. Children's chairs and tables that are multipurpose and not stationary;

13.2.b. Moveable play equipment;

13.2.c. Open shelves for play equipment for children's daily activities; and

13.2.d. Sleeping equipment as required in this rule.

13.3. Furnishings for Centers with Children Twenty-Four (24) Months of Age and under.

13.3.a. In centers that enroll children twenty-four (24) months of age and under, or children that cannot function independently, a center's furnishings shall include:

13.3.a.1. Adult-sized comfortable chairs and a table or other surface for changing diapers that has raised sides or other features that prevent the child from falling and that are located in an area that is removed from the activities of the other children;

13.3.a.2. Furniture that is child-sized or adapted for children; and

13.3.a.3. Feeding equipment that is appropriate and sufficient for the children's sizes, ages, and numbers served; provided that tables with built-in multiple bucket-type seats shall not be purchased or acquired for use in the center after the effective date of this rule. When feeding equipment is a high chair, the chair shall have a wide base and a T-shaped safety strap;

13.3.b. Jumpers and infant walkers are prohibited.

13.4. Sleeping Equipment. A center's sleeping equipment:

13.4.a. For children who participate in a nap-time program shall include:

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13.4.a.1. One (1) crib ~~or playpen~~ with a firm mattress for each child twelve (12) months of age and under or who is up to thirty-five (35) inches tall;

13.4.a.2. One (1) crib ~~or playpen~~ with a firm mattress, mat or cot for each child between thirteen (13) and twenty-four (24) months of age; and

13.4.a.3. One (1) mat, cot, or bed for each child over twenty-five (25) months of age;

13.4.b. For evening and nighttime programs shall not include mats as sleeping equipment;

13.4.c. For the care of an ill child shall include at least one (1) disinfected cot;

13.4.d. Shall be cleaned and disinfected at least once a week, or before another child uses it, or immediately after it is soiled;

13.4.e. Includes the following specifications for cribs ~~and playpens~~;

~~13.4.e.1. Cribs shall comply with the federal standards for cribs and non-full size cribs; The distance between the slats, side and end panels of the crib or playpen shall not be more than two (2) and three eighths (3/8) inches. A playpen with mesh siding shall have mesh that is less than 1/4 inches in size and the mesh shall be securely attached to the sides;~~

13.4.e.2. The mattress shall be manufactured for sale in the United States as infant sleeping equipment and fit the crib snugly with no more than one half (1/2) inch between it and the crib side;

~~13.4.e.3. The crib shall be sturdy, and non-collapsible and easily disinfected, which precludes the use of play yards and "pack and play" type equipment; - play yards, playpens and "pack and plays" do not meet this requirement;~~

13.4.e.4. The minimum height from the top of the mattress to the top of the crib rail shall be twenty (20) inches;

~~13.4.e.5. The crib and playpen drop side latch shall hold the side securely in the raised position, be out of the reach of the child in the crib or playpen, and the rail shall be in the highest raised position when the crib is in use. The playpen side shall never be down when a child is in the playpen;~~

~~13.4.e.6. There shall be no corner post extensions over one sixteenth (1/16) inch or decorative cutout areas in the end panels of the crib that could entrap the child's head or catch on clothing;~~

~~13.4.e.7. The playpen pad shall be at least one (1) inch thick;~~

13.4.e.8. Each mattress ~~or pad~~ shall have a form fitting cover that is durable and able to be easily disinfected; and

~~13.4.e.9. Playpens with mesh sides and covered top rails shall not have holes, tears, loose threads or exposed staples~~ Effective December 28, 2012, the use of traditional drop side cribs, and any

crib manufactured prior to June 28, 2011 is prohibited unless the center obtains a certificate of compliance from the manufacturer that the crib is compliant to the current federal standards.

13.4.f. Includes the following specifications for mats:

13.4.f.1. They shall be at least two (2) inches thick; and

13.4.f.2. They shall have form-fitting covers that are durable, waterproof and able to be easily disinfected;

13.4.g. Includes the following specifications for cots:

13.4.g.1. The bottom of the cot's sleeping surface shall not be less than three (3) inches and not more than eighteen (18) inches off the floor;

13.4.g.2. The cot shall be firm enough to support the child;

13.4.g.3. The cot shall be of sufficient size to comfortably accommodate the size and weight of the child; and

13.4.g.4. The cot shall be constructed of a material that can be easily disinfected.

13.4.h. Shall not permit children to:

13.4.h.1. Sleep on the floor;

13.4.h.2. Sleep on the floor in a sleeping bag or on bed linens alone;

13.4.h.3. Sleep in a stacked crib or consecutively attached crib;

13.4.h.4. Share a bed or cot, even with a family member; or

13.4.h.5. Use a crib if they are over thirty-five (35) inches tall.

13.4.i. Includes the following specifications for bedding:

13.4.i.1. Mattresses, ~~playpen pads~~ or cots shall be waterproof or have a waterproof cover;

13.4.i.2. Bedding, including sheets and blankets, shall be clean and in good condition;

13.4.i.3. Bedding shall not be used by more than one child at a time;

13.4.i.4. Bedding shall be used to cover all sleeping surfaces before being used;

13.4.i.5. Seasonally appropriate covers shall be used, sufficient to maintain adequate warmth. For children 12 months of age and younger a sleeper may be worn or a thin blanket used for a covering.

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If a blanket is used, it shall be tucked around the mattress of the crib and only cover the child as high as his or her chest;

13.4.i.6. Pillows or soft, fluffy bedding shall not be used for the child twelve (12) months of age and under;

13.4.i.7. Pillows or soft fluffy bedding made of substances of animal origin other than wool, including feathers and animal hair, that commonly cause allergic reactions, shall be prohibited; and

13.4.i.8. A center shall change bedding when soiled, prior to use by another child and at least weekly, except sheets on cribs that shall be changed at least daily.

13.4.j. Includes the following requirements when providing evening or nighttime care:

13.4.j.1. Each cot or bed shall have a pillow, pillow case and two (2) sheets; and

13.4.j.2. When the sleeping surface is a mattress, the bottom sheet shall be secure.

13.5. Indoor activity Equipment and Materials. A center shall provide equipment and materials for indoor activities that:

13.5.a. Are appropriate to the child's age and developmental level;

13.5.b. Support many types of activities, including social and fantasy play; exploration and mastery of skills and language; music, art and movement; and gross motor experiences as described in Appendix 78-1 A of this rule;

13.5.c. Are available in sufficient quantity to permit each child to choose from among several of each type, to allow for sharing and prevent conflict, and to allow staff to keep reserves for rotation;

13.5.d. Represent diverse cultures, ethnic groups, gender roles and abilities in ways that do not reinforce stereotypes;

13.5.e. Are clearly organized within activity areas that support programming goals and allow for adequate supervision;

13.5.f. Are complete, sturdy, clean and in good working condition;

13.5.g. Are lead-free and otherwise nontoxic; and

13.5.h. Maximize safety by ensuring that:

13.5.h.1. Indoor play equipment, shelves, and large objects, such as televisions and computer monitors, are firmly anchored;

13.5.h.2. Use zones are extended by at least six (6) feet in all directions from the perimeter of

indoor climbing equipment, and ~~landing mats are provided that are at least four (4) inches thick, constructed of materials such as rubber or a rubber composition,~~ the use zone surfacing is constructed of material that has an American Society for Testing and Materials (ASTM) rating for the critical fall height of the equipment. The use zone surfacing shall be securely fixed in place;

13.5.h.3. Climbing equipment for children under 24 months may not exceed 32 inches. If the climbing equipment is located in the designated area for children under 24 months, then the use zone need only extend for 36 inches;

13.5.h.4. Small objects, toys and toy parts that have diameters of less than one (1) and one quarter (1/4) inch that can be swallowed are not accessible to children less than four (4) years of age; and

13.5.h.4~~5~~. Plastic bags, latex gloves and styrofoam objects are not accessible to the child less than four (4) years of age, and that balloons are completely prohibited in a center that serves children less than school age.

13.6. Outdoor Activity Equipment and Materials. A center shall provide equipment and materials for outdoor activities that:

13.6.a. Are appropriate to the child's age and developmental level;

13.6.b. Support many types of experiences as listed in Appendix 78-1 A of this rule;

13.6.c. Are available to the child in sufficient quantity to permit each child to choose at least two (2) types of outdoor play experiences and to allow for sharing and prevent conflict;

13.6.d. When a child is not ambulatory, are appropriate for outings, such as a stroller or carriage; and

13.6.e. Maximize safety by ensuring that:

13.6.3.1. All outdoor equipment is installed, maintained and used in accordance with the manufacturer's instructions;

13.6.3.2. The position of the outdoor equipment prevents hazards from conflicting activities;

13.6.3.3. The use zones are free of obstacles, except for the support structures for the swings;

13.6.3.4. The supports for climbers, swings, and other heavy equipment are securely anchored so that they pose no threat to the children's safety, even when the equipment is designed to be portable;

13.6.3.5. Each swing frame for the child twenty-four (24) months of age and under has a maximum of two (2) seats;

13.6.3.6. Metal equipment is in the shade, if at all possible;

13.6.3.7. When the center has a sand box, that the box permits drainage, is covered when not in use, and that the sand does not contain toxic or other harmful materials and is free of animal excrement and other debris; and

13.6.3.8. The outdoor area is free of wading pools and other equipment that might hold water which pose a drowning hazard to the child or a breeding environment for mosquitoes.

13.7. Safety helmets shall be worn by all riders when using a riding toy or riding equipment that requires balancing while moving or when the wheel has a diameter of 20 inches or greater.

13.8. Standard Trampolines are prohibited unless used as a special activity and the activity complies with sub-section 14.9 of this rule.

13.79. Storage of Equipment, Materials and Supplies. A center shall provide storage for equipment, materials and supplies that includes:

13.79.a. Open shelves, at the appropriate level from the floor, for activity items so that children may select, remove and replace items independently;

13.97.b. A container, shelf, or cupboard that is inaccessible to children but permits staff to reach supplies, such as clean diapers, without leaving a child unattended;

13.97.c. A closet when used that is accessible to children and has a latch with an internal release so that the door can be opened by a child inside the closet; and

13.97.d. Separate storage areas for each child's personal belongings, including appropriate safe storage for the school-age child's money and ongoing projects.

§78-1-14. Program.

14.1. For each program offered, a center shall prepare and follow a written daily schedule that:

14.1.a. Reflects the goals and objectives set out in the statement of purpose;

14.1.b. Is based on knowledge of child development and learning, and on the needs of the enrolled children;

14.1.c. When necessary to accommodate the needs of a child, follows a written individualized plan, developed with advice from a variety of professional sources, including, but not limited to, an early intervention specialist or a licensed health care provider; and

14.1.d. Is posted in clear, public view.

14.2. A center shall ensure that each program includes flexible program activities that:

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14.2.a. Are appropriate to a child's age and developmental level;

14.2.b. Include an appropriate balance of:

14.2.b.1. Indoor and outdoor activities;

14.2.b.2. Activities that use both large and small muscles;

14.2.b.3. Quiet and active play periods;

14.2.b.4. Active and passive learning experiences;

14.2.b.5. Individual and several types of group activities; and

14.2.b.6. Teacher-initiated and child-initiated activities;

14.2.c. Provide opportunities for a child to choose from among several possible activities, or choose not to participate in structured activities at certain times of the day;

14.2.d. Provide a variety of social experiences through grouping arrangements, including mixed-age experiences, that take into account each child's level of maturity;

14.2.e. Include routines at regularly scheduled times, such as sleeping, eating, dressing, toileting, hygiene and diapering;

14.2.f. Are planned so that a child has sufficient time to progress at his or her own developmental rate and does not experience a prolonged waiting period between activities or tasks;

14.2.g. Provide a child with the freedom to get a drink of water or go to the toilet as he or she feels the needs, in keeping with the requirements of this rule; and

14.2.h. Respect cultural diversity and incorporate aspects of a child's culture, including his or her language, traditional food and celebrations.

14.3. A center shall ensure that each program follows guidelines for:

14.3.a. Sleeping routines. A center shall:

14.3.a.1. Provide a designated area where a child can sit quietly or lie down to rest;

14.3.a.2. Ensure that a child twenty-four (24) months of age and under is able to nap according to his or her developmental needs;

14.3.a.3. Ensure that the schedule for a child between twenty-five (25) months of age and school-age who is in care for more than four (4) daytime hours includes a regular nap period of at least one (1) hour each day for the child who sleeps, an opportunity for rest and quiet play for the child who is

unable to sleep during the nap period, and a regular nap period for the school-age child who needs it; and

14.3.a.4. Ensure that staff members initially place the child twelve (12) months of age and under, or under the age when he or she can turn over independently, on his or her back unless the parent provides a written statement from a licensed health care provider prohibiting the child from being placed in that position for sleep;

14.3.b. Brushing Teeth. A center shall provide appropriate opportunities for the children in care to have supervised practice of brushing teeth on a daily basis; and

14.3.c. ~~Outdoor Activity~~Active play and movement. The center shall promote children's active play every day by providing the opportunity to engage in vigorous activities. All children, birth to six, shall participate daily in:
~~A center shall provide a minimum of one (1) hour of outdoor activity daily when:~~

14.3.c.1. Two or more structured or staff lead activities or games that promote movement over the course of the day;~~A child is in care for more than four (4) daytime hours; and~~

14.3.c.2. Opportunities to develop and practice age-appropriate gross motor and movement skills;

14.3.c.3. Outdoor activity. The center's daily schedule shall have no less than 1 hour of planned outdoor time:

14.3.c.3.a. The total time allotted for outdoor activity and vigorous indoor or outdoor physical activity can be adjusted for the age group;

14.3.c.3.b. Weather and circumstances permit and there are no weather or condition advisories indicating to remain indoors;

14.3.c.3.c. Children less than one year of age shall be taken outside two to three times per day, as tolerated;

14.3.c.3.d. Children older than 12 months shall be allowed sixty to ninety total minutes of outdoor play.

14.3.c.3.e. When weather or adverse conditions curtail outdoor activity time, the amount of indoor active play shall be increased so that the total amount of time spent in active play remains the same;

14.3.c.4. Total time allotted for vigorous activities:

14.3.c.4.a. Children 13 months to three years will be allowed sixty to ninety minutes per eight-hour day for vigorous or physical activity;

14.3.c.4.b. Children three years to school age will be allowed ninety to one hundred and twenty minutes per eight-hour day for vigorous or physical activity;

14.3.c.4.c. Qualified staff shall incorporate two or more short structured activities (five to ten minutes) or games daily that promote physical activity;

14.3.c.4.d. Part time programs or WV Pre-k classrooms incorporated into the center shall, at a minimum, provide opportunities to be active by prorating the time of these requirements accordingly.

14.3.c.5. Prior to being able to crawl, infants shall have supervised time on their stomachs every day when they are awake.

14.3.c.6. Infant equipment such as swings, stationary activity centers (exersaucers), infant seats, molded seats etc. if used shall only be used for short periods of time not to exceed fifteen minutes. A least restrictive environment should be encouraged at all times.

14.3.c.7. Qualified staff shall promote children's active play, and participate in children's active games at times when they can safely do so.

14.4. For children twenty-four (24) months of age and under, a center shall follow these additional daily program requirements:

14.4.a. Beginning with the pre-admission meeting between the director or designated staff member and the parent, a center shall work with a child's parent to prepare a written schedule that:

14.4.a.1. Respects a child's normal pattern of activities, sleeping and eating;

14.4.a.2. Is consistent with a child's needs and capabilities;

14.4.a.3. Provides a child with opportunities to interact with staff members, participate in program activities, be outdoors daily as appropriate, and be diapered or toileted as needed; and

14.4.a.4. Identifies qualified staff who will primarily care for the child.

14.4.b. A center shall ensure that the schedule is available for reference in the child's program area.

14.4.c. A center shall ensure that qualified staff members:

14.4.c.1. Evaluate and modify the schedule on a frequent and regular basis, according to the child's developmental needs and in consultation with the child's parent; and

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14.4.c.2. For each child twelve (12) months of age and under, prepare a written daily report with information about a child's activities in the following areas:

14.4.c.2.A. Food intake;

14.4.c.2.B. Sleeping patterns;

14.4.c.2.C. Bowel movements;

14.4.c.2.D. Developmental milestones, such as sitting and crawling; and

14.4.c.2.E. Unusual events.

14.5. Staffing Pattern. A center shall arrange its staffing pattern so that each child has a primary care giver who is a qualified staff member. Staff members shall interact personally with the infant, toddler, and child under school age by:

14.5.a. Holding, rocking and playing whenever possible, including while bathing, dressing and carrying the child;

14.5.b. Encouraging positive communication and language development by making eye-to-eye contact with the child, singing, talking, reacting to the child's communications, naming objects, reading stories and playing musical games;

14.5.c. Paying attention to crying and meeting the immediate needs of the child;

14.5.d. Ensuring that no child is routinely left in a crib or playpen, except for sleep or rest; and

14.5.e. Providing a child who is awake play equipment and opportunities to play freely on a clean, safe floor.

14.6. Night Time Care. When a center provides evening or nighttime care, the center shall:

14.6.a.1. Plan a program that respects the normal sleeping periods, and evening and morning routines of the child;

14.6.a.2. Establish and post a schedule for the child in consultation with the child's parent that provides for:

14.6.a.2.A. Quiet activities before bedtime and opportunities for the older child to complete homework or work on projects or hobbies;

14.6.a.2.B. Meals and snacks;

14.6.a.2.C. Routine preparations for bed; and

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14.6.a.2.D. Dressing in the morning, when appropriate.

14.6.a.3. Ensure that no child remains in care for more than eighteen (18) hours in a twenty-four (24) hour period.

14.6.a.4. Ask the parent to provide for the child's personal use a clean, comfortable, nonflammable or flame retardant sleeping garment and other personal items, such as a comb or brush, and label the child's personal use items; and

14.6.a.5. Ensure that staff members supervise a child's bath or individual shower, respecting the child's privacy according to the child's developmental needs.

14.7. ~~Active-Screen~~ Media. When a center plans an activity that involves ~~active-screen~~ media, the center shall ensure that:

14.7.a. The ~~active-screen~~ media supplements but does not replace traditional early childhood materials;

14.7.b. A child has a choice of other activities and materials;

14.7.c. Staff members are available to support the activity by discussing the use of the ~~active~~ media with the child;

14.7.d. The computer software or other digital media chosen is developmentally appropriate and supports creative play and learning; ~~and~~

14.7.e. No ~~video games or computer software~~ media with sexual or violent content, profanity or aggressive behavior ~~are is~~ used;

14.7.f. Children between the ages of two years and school age shall be limited to using screen media not more than thirty minutes per week 15 minutes per day, or 75 minutes per week (per child), and for educational or physical activity use only;

14.7.g. School age children shall be limited to using screen media not more than thirty 75 minutes per week (per child) and for educational or physical activity use, except for the use of computers and other media as needed for homework; and

14.7.h. Use of screen media is prohibited with children under the age of two years.

~~14.8. Passive Media. Regarding passive media, a center shall ensure that:~~

~~14.8.a. Passive media is not routinely part of the daily schedule;~~

~~14.8.b. When passive media is used, that staff members are available to support the use of it by discussing what is viewed with the child;~~

~~14.8.c. When a center allows the child to watch television programs and movies, the contents are designed to benefit the child, viewing time is limited and the child who does not wish to watch has a choice of other activities;~~

~~14.8.d. No television programs, cartoons or movies with sexual or violent content, profanity or aggressive behavior are viewed; and~~

~~14.8.e. Television, video or other such electronic media is not used with children 24 months of age and younger.~~

14.98. Special Activity. When a center participates in a special activity, the center shall provide staff who are trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the special activity. Prior to the special activity, the center shall:

14.98.a. Have on file an activity plan that includes, but is not limited to:

14.98.a.1. The qualifications of the supervisor of the special activity;

14.98.a.2. The special qualifications, if any, of any other staff member necessary for adequate supervision of the activity;

14.98.a.3. A supervision plan that includes the number of staff members needed to adequately supervise the activity;

14.98.a.4. The conditions under which a child may participate in the activity, such as the child's age or skills;

14.98.a.5. Any special equipment necessary, such as life jackets, helmets, or other safety gear; and

14.98.a.6. Special safety practices and emergency procedures;

14.98.b. Provide the parent with copy of the activity plan and have written permission dated and signed by the parent for the child's participation in the activity; and

14.98.c. Assign appropriate staff to the activity by:

14.98.c.1. Choosing a staff member for the special activity who has appropriate experience, training or certification in the activity;

14.98.c.2. Having on file at the center verification of the responsible staff member's experience, training or certification; and

14.98.c.3. Ensuring that the responsible staff member is present at the site of the activity.

14.109. Water Activities. When a center plans water activities, the center shall:

14.109.a. Have on file at the center written permission dated and signed by the parent prior to the child's participation in any water activity;

14.109.b. Ensure constant supervision of a child participating in any aspect of any activity involving water;

14.109.c. Ensure adequately prepared staff who are in the water or prepared to enter it at any time and have a system, known to the children and staff members, for checking to ensure that each child is safe when in the water;

14.109.d. Ensure that when a child is participating in a level I or Level II water activity, a staff member is present who has successfully completed training in first aid and CPR, appropriate to the age of the child;

14.109.e. Ensure that when a child is participating in a Level II water activity, the activity is also guarded by an individual who:

14.109.e.1. Is an appropriately certified lifeguard;

14.109.e.2. Has skills in rescue and emergency procedures specific to the aquatic area and activities guarded; and

14.109.e.3. Is trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the aquatic activity; and

14.109.f. Ensure proper equipment and safety further by:

14.109.f.1. Evaluating the child and classifying the child as either a swimmer or a non swimmer, prior to allowing a child to participate in a Level II water activity;

14.109.f.2. Assigning equipment, facilities and activities equivalent to the child's individual abilities and based on a child's classification; and

14.109.f.3. Ensuring that rescue equipment is in full working condition, available and accessible to a child at each water activity site.

14.110. Field Trip. When a center plans a field trip, the center shall:

14.110.a. Have on file a written field trip plan that includes:

14.110.a.1. The names of the children, staff members, and any other participants on the field trip;

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- 14.1+0.a.2. The departure and return times;
- 14.1+0.a.3. The means of travel and routes to be taken;
- 14.1+0.a.4. An alternate plan in case of bad weather;
- 14.1+0.a.5. The name of a contact person at the center;
- 14.1+0.a.6. The name, address, and telephone number, if applicable, of each destination;
- 14.1+0.a.7. Relevant safety rules to be followed; and
- 14.1+0.a.8. Special emergency procedures;

14.1+0.b. Obtain written permission from the child's parent prior to the field trip; and

14.1+0.c. Identify the name or names of the assigned qualified staff member or members responsible for the field trip who shall take with him or her a copy of the written field trip plan, first aid supplies and emergency information for each participating child.

§78-1-15. Health.

15.1. Child Immunization Records.

15.1.a. Within thirty (30) days of admitting a child, a center shall have on file a record of a child's immunizations or a plan for completion signed by the child's licensed health care provider.

15.1.b. If center policy allows, exemptions from immunization requirements shall be available for parents who provide written documentation of religious objections to immunization.

15.1.c. Exemption from immunization requirements shall be available for parents who provide a signed statement from the child's licensed health care provider indicating that immunization is contraindicated based on the child's medical condition

15.2. Child Health Assessment.

15.2.a. A center shall have on file no later than thirty (30) days after the admission, the child's health records, including a record of a health assessment signed by the child's licensed health care provider, that includes the following medical and developmental information, and any special required instructions for the center:

15.2.a.1. The child's current height and weight;

15.2.a.2. A description of any allergy, current health problem or condition that may affect the child's adaptation to care, including abnormal results of screening tests, for vision, hearing, tuberculosis, or lead poisoning;

15.2.a.3. Prescribed daily medications and any potential side effects; and

15.2.a.4. The child's health history, including, as applicable, information about a serious illness or significant communicable disease, an injury that required medical attention or hospitalization, a previous surgery, or a history of prematurity; and

15.2.a.5. A medical plan of care if the child has a chronic health condition that has the potential to be a medical emergency.

15.2.b. A center shall provide parents with a West Virginia Health Check periodicity chart for child health exams and shall ensure that a child's health assessment is updated with new or current information at least every two (2) years for the child under the age of six (6) years.

15.2.c. If a child is between six (6) weeks and three (3) months of age, a center shall have on file a statement signed by the child's licensed health care provider permitting the child to enter group care.

15.3. Medical Treatment.

15.3.a. A center shall develop, implement and maintain health policies and procedures that include protocols to follow when medical treatment is required by a child whose parent has on file a signed statement objecting to treatment.

15.3.b. When the child's parent objects to medical treatment on the grounds that it conflicts with the convictions of his or her religion or conscience, the center shall have on file a statement of the objection to treatment signed by the child's parent.

15.4. Child Illness at the Center.

15.4.a. A center shall ensure that staff members observe a child daily and watch for changes that may indicate injury, infestation or illness, and record any observed changes in the child's file. Changes include:

15.4.a.1. Behavior or appearance that is unusual for a child;

15.4.a.2. A skin rash, itchy skin, or itchy scalp; or

15.4.a.3. A complaint of pain or not feeling well.

15.4.b. When staff members observe changes in a child that may indicate illness or when a child is ill, staff members shall:

15.4.b.1. Remove the child to a designated quiet area to rest comfortably under supervision;

15.4.b.2. Take the child's temperature and record it in the child's file;

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15.4.b.3. Use universal precautions, as required; and

15.4.b.4. Contact the child's parent or other individual authorized by the parent to assume responsibility for the child.

15.4.c. When taking a child's temperature, staff members shall not use a mercury thermometer or the rectal method for any child.

15.4.d. A center shall inform the parent and suggest that the parent consult a licensed health care provider for a child who has a fever:

15.4.e. A center shall exclude a sick child from the center:

15.4.e.1. Immediately when a child has a serious communicable illness;

15.4.e.2. When the illness prevents a child from participating in routine activities;

15.4.e.3. When a child's illness results in a greater need for care than staff members can provide without compromising the health and safety of the other children;

15.4.e.4. When a child appears to have any of the following symptoms, unless a licensed health care provider determines that they do not indicate a communicable disease:

15.4.e.4.A. Fever with stiff neck, lethargy, irritability, or persistent crying;

15.4.e.4.B. Diarrhea in addition to signs of dehydration, such as a decrease in urination as indicated by a reduction in the number of wet diapers, no tears when crying or a decrease in activity, or blood or mucus in the stool;

15.4.e.4.C. Vomiting three (3) or more times, or with signs of dehydration;

15.4.e.4.D. Undiagnosed rash that is accompanied by a behavior change, difficulty in breathing or joint pain, or that is characterized by open sores, blood, red or purple pin-head spots, or bruises not associated with an injury, or lasts more than one (1) day;

15.4.e.4.E. Mouth sores with drooling;

15.4.e.4.F. Infestation, such as scabies or head lice;

15.4.e.4.G. Abdominal pain that is persistent, or intermittent with other signs such as a fever;

15.4.e.4.H. Difficulty in breathing; or

15.4.e.4.I. Lethargy such that the child does not play; and

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15.4.e.5. When a child has any of the following diagnosed conditions;

15.4.e.5.A. Diarrhea and blood or mucus in the stool;

15.4.e.5.B. Contagious signs of pertussis, measles, mumps, chicken pox, rubella or diphtheria;

15.4.e.5.C. Streptococcal infection until treated with antibiotics for twenty-four (24) hours;

15.4.e.5.D. Pinkeye with yellow or white discharge;

15.4.e.5.E. Untreated tuberculosis; or

15.4.e.5.F. Other conditions as determined by a licensed health care provider.

15.4.f. When excluding a child to prevent transmission of illness or readmitting a child who has been excluded, the center shall abide by the following guidelines:

15.4.f.1. During the course of an identified outbreak of any communicable illness, the center shall exclude the child if a licensed health care provider determines that the child is contributing to the transmission of the illness;

15.4.f.2. When a child has been diagnosed with a vaccine-preventable communicable disease, a center shall exclude the child who has not been immunized against the disease until a licensed health care provider determines that a risk of disease transmission has passed;

15.4.f.3. When a licensed health care provider excludes a child because of a communicable illness, a center shall readmit the child only after the child's parent provides a signed statement from a licensed health care provider that the risk of transmission is no longer present and the child is well enough to participate in center activities; and

15.4.f.4. After receiving a signed statement from a licensed health care provider that the child poses no health risk to the children at the center, the center may permit the child to remain at the center.

15.4.g. Guidelines for handling reportable diseases introduced in a center include that:

15.4.g.1. A center shall report to the local health department the introduction of a diagnosed reportable disease as listed in Appendix 78-1 B of this rule, including, chickenpox, diphtheria, giardia lamblia, hepatitis A, mumps, meningitis, pertussis (whooping cough), rheumatic fever, rubella (German measles), rubeola (measles), salmonella, shigella, and tuberculosis;

15.4.g.2. A center shall inform the parent of each child immediately of the presence of the disease and the need to contact a licensed health care provider for further information; and

15.4.g.3. A center shall complete a serious occurrence report as required under this rule.

15.4.h. Medication Administration. With advice from a licensed health care provider, a center shall develop, implement and maintain health policies and procedures that include the following procedures for the administration of medication:

15.4.h.1. A center shall only administer medication with written permission from the child's parent, and with a prescription or a written order from a licensed health care provider except as provided for in Section 15.4.h.7.;

15.4.h.2. The center shall secure instructions from the child's parent for each medication to be administered. The center may not accept instructions that indicate to administer the medication on an as needed basis unless the order is accompanied by a medical treatment plan written by the child's licensed health care provider which describes the as needed condition. All medication instruction must be legibly written, signed by the parent, attached to the medication log and shall include:

15.4.h.2.A. The child's first and last name;

15.4.h.2.B. The name of the medication to be given;

15.4.h.2.C. The reason the medication is being given; and

15.4.h.2.D. Directions for the administration of the medication including the specific dosage, specific frequency or time to be given, route to be given and the time of the last dosage administered by the parent.

15.4.h.3. A center may secure a parent's written permission to apply sun screen supplied by the center provided the center gives the parent information, in writing, about the product prior to its application.

15.4.h.4. A center shall store ~~all medication in its original bottle or package~~packaging and shall place the medication ~~medication other than sun screen and diaper ointment~~ in a locked cabinet or labeled container that is inaccessible to children and can be opened only by key or combination; sunscreen, diaper ointment and emergency medication must be inaccessible to children, but do not require storage in a locked cabinet or container. The container or cabinet shall be away from food, and refrigerated or unrefrigerated according to instructions on the prescription, order or label.

15.4.h.4.A. Refrigerated medication shall be in a container which cannot leak.

15.4.h.4.B. If the container used is plastic, it shall be a hard molded plastic container. Plastic bags are prohibited for storage.

15.4.h.4.C. Medication for staff shall be stored separately from children's medication.

15.4.h.5. A center shall ensure that medication is only administered by designated qualified ~~staff members with~~ who have passed the approved training in medication administration.

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15.4.h.6. A center shall ensure that prescription medication is only administered when the prescriptive medicine bottle or package has the original pharmacy label showing the prescription number, name of the medication, date the prescription was filled, the licensed health care provider's name, the child's first and last names, specific, legible directions for administration and storage, and the expiration date.

15.4.h.7. A center shall ensure that non-prescription medication is only administered when the following criteria are met:

15.4.h.7.A. The center administers oral non prescription medication for no more than three (3) consecutive days within a thirty (30) day period without written instruction from a licensed health care provider;

15.4.h.7.B. The center applies non prescription topical products (ointments, creams, or lotions) for no more than five (5) consecutive days within a thirty (30) day period without written instruction from a licensed health care provider. Sunscreens, diaper ointments or lip balms used for preventative purpose are excluded from this requirement;

15.4.h.7.C. The original non prescriptive medicine bottle or package has a label with the child's first and last names written by the parent, specific, legible directions for administration including the appropriate dosage based on weight or age, directions for storage, and verification that the medicine will not expire during the time to be used;

15.4.h.7.D. Medication to reduce fever does not contain aspirin or any product containing aspirin listed as an ingredient such as sodium bicarbonate (Alka-Seltzerâ) or bismuth subsalicylate (Pepto-Bismolâ);

15.4.h.7.E. ~~Medication for cough, cold or congestion does not contain codeine for teething pain does not~~ that contains benzocaine shall not be used without written instruction from the child's health care provider;

15.4.h.7.F. Any topical containing diphenhydramine hydrochloride (Benydrilâ) shall not be applied without written instruction from a licensed health care provider;

15.4.h.7.G. That the medication shall not be administered in a manner inconsistent with the manufacturer's recommendations without written instructions from the child's licensed health care provider;

15.4.h.7.H. The center shall ensure that a staff member ~~applies~~ assists as needed in the application of sunscreen or lip balm for a child up to school age. The sunscreen shall be applied in accordance with the product labeling guidelines; and

15.4.h.7.I. The center shall permit a school age child to apply his or her own sun screen or lip balm under the direct supervision of a staff member.

15.4.h.8. A center shall ensure that before administering medication when the directions are not legible, the parent checks with the child's licensed health care provider or, if applicable, the pharmacy that filled the prescription;

15.4.h.9. When a child no longer needs the medication or its expiration date passes, a center shall return the medication to the parent, and document the date of its return. A center shall not administer medication after its expiration date;

15.4.h.10. A center shall ensure that records of medication administration are individual and kept:

15.4.h.10.A. In a medication log that is cumulative; and

15.4.h.10.B. Completed in ink by the staff member who administers the medication, and includes the child's name, the name of the medication, the date and time of the administration, the dosage and route of the medication, the child's reaction, if any, and the name of the staff member who administered it.

15.4.h.10.C. Sunscreen and lip balm application are not required to be logged.

15.4.h.11. A center shall ensure when a documentation error is made that a single line is drawn through the error with the staff person correcting the error initialing it.

15.4.h.12. A center shall ensure if and when a medication error is made, the staff member who makes the error:

15.4.h.12.A. Informs the center director and the parent of the child affected by the error;

15.4.h.12.B. Completes a serious occurrence report as required under this rule; and

15.4.h.12.C. Observes the child for any reaction to the error, ~~and, if~~ if the child shows a reaction, contacts 911, and in the case of an overdose, contacts the poison control center. If 911 service is not available to the area then emergency services shall be contacted.

15.4.h.13. A center may permit a child to self-administer his or her own medication under the following circumstances:

15.4.h.13.A. With written permission from the child's parent and licensed health care provider and in accordance with procedures established in this rule, a child may self-administer asthma medication, emergency allergy medication or other similar emergency medication;

15.4.h.13.B. With written permission from the child's parent and licensed health care provider, the center may establish procedures to permit the child, under supervision, to self-administer insulin or other injected medication that the child requires; and

15.4.h.13.C. When the child self-administers medication, qualified staff members shall

keep a written record of the administration in the medication log.

15.4.h.14. A center shall have a procedure that requires medication logs be reviewed on a daily basis to ensure that medicine is being properly administered and documented.

15.4.h.15. A center shall post the "Seven Rights of Medication Administration" near to the storage of medication.

15.5. Dental Health.

15.5.a. A center shall develop a dental health plan that provides for staff training in oral health concepts and child oral health education, appropriate to the age of the children at the center.

15.5.b. Staff members shall not give a child a bottle, a sipping cup of milk or juice as a pacifier.

15.5.c. For a child twenty-five (25) months and over, a center shall ensure that the child:

15.5.c.1. Has a personally labeled toothbrush with bristles in good condition, that is stored in a sanitary manner so that it does not touch another toothbrush and that its bristles are exposed to the air to dry;

15.5.c.2. Does not share his or her toothbrush with other children; and

15.5.c.3. Uses toothpaste that is dispensed in a sanitary manner.

§78-1-16. Nutrition and Food.

~~16.1. A center will have a nutrition program that shall provide children with meals and snacks that are consistent with the United States Department of Agriculture's (USDA) Child and Adult Care Food Program (CACFP), Meal and Snack Patterns (Appendix 78-1-C), Dietary Guidelines for children beginning at age two (2). A center shall provide children with meals and snacks that are consistent with the United States Department of Agriculture's current Dietary Guidelines for Americans (Appendix 78-1-C).~~

~~16.2. Dietary guidelines for children under 24 months of age:~~

~~16.2.a. At a minimum, meals and snacks the facility provides for infants and toddlers shall contain food in the meal and snack patterns shown in Appendix 78-1-C of this rule. Food shall be appropriate for infants' individual nutritional and developmental stages as determined by written instruction from the parent or health care provider.~~

~~16.2.b. The center shall offer solid foods and fruit juices to infants 6 months of age and younger only upon the recommendation of the parent and the child's licensed health care provider.~~

16.32. Special Dietary Needs. When planning meals and snacks a center shall:

16.32.a. Consider information provided by the parent or a licensed health care provider about a child's special dietary needs, including special needs because of a medical condition or religious prohibition;

16.2.b. Obtain a written care plan from the parent stating the food(s) to be avoided and/or food(s) to be substituted and any need for special utensils; and

16.32.b.c. Keep information about the child's special dietary needs in a location that is accessible to staff who prepare and serve food, while protecting a child's right to confidentiality.

~~16.4. Food Groups. A center shall include foods from the four (4) basic food groups: milk, meat/beans, fruits and vegetables, and grains, for the child thirteen (13) months of age and over as follows:~~

~~16.4.a. Breakfast shall include at least one (1) item from three (3) of the food groups;~~

~~16.4.b. Lunch or supper shall include at least one (1) item from each of the four (4) food groups; and~~

~~16.4.c. Snacks shall include at least one (1) item from two (2) of the food groups.~~

16.53. Frequency of Meals. A center shall offer food at intervals no more than three hours apart and ensure that no more than four (4) hours elapse between meals and snacks, unless a child is asleep for snacks for any child. A center shall provide meals and snacks according to the following requirements:

16.53.a. A center that is open from morning through afternoon shall serve a morning snack or breakfast, lunch and afternoon snacks;

16.35.b. A center that provides care before seven (7) o'clock in the morning shall serve breakfast; and

16.35.c. A center that provides care to the child whose planned attendance extends until after seven (7) o'clock in the evening shall serve supper;

~~16.6. Quantity for Daily Requirements. A center shall follow the current meal patterns of the USDA Child and Adult Food Program and serve a child:~~

~~16.6.a. Who is in attendance from four (4) hours to seven (7) hours, a quantity of food that will supply a minimum of one third (1/3) of the daily requirements of the current Dietary Guidelines for Americans listed in Appendix 78-1 C of this rule;~~

~~16.6.b. Who is in attendance for eight (8) or more hours, a quantity of food that will supply one third (1/3) to one half (1/2) of the daily requirements of the current Dietary Guidelines for American; and~~

~~16.6.c. Servings of food appropriate to the age of the child, and make additional food available~~

~~for the child who has eaten the food served and is still hungry.~~

16.74. Requirements for Milk and Juice.

16.74.a. A center shall serve the child only pasteurized, inspected, Grade A approved milk to drink, and shall not use powdered milk except for cooking.

16.47.b. A center shall serve the child only commercially pasteurized, one hundred (100) percent, vitamin C fortified fruit juice to drink.

16.58. Food Service. A center shall serve food according to the following:

16.58.a. A center shall provide a child with age-appropriate and developmentally suitable eating utensils;

16.58.b. Staff members shall encourage a child to eat the food served, but shall not coerce or force feed a child;

16.58.c. Staff members shall eat or participate in meals and snacks with a child twenty-five (25) months of age and over and shall model healthy eating habits; ~~and~~

16.58.d. The meals shall be served in a setting that encourages socialization, where the children and staff members are seated when eating, and staff members provide supervision and model positive eating behaviors and social interactions; and

16.5.e. Children will be given time to eat their food without rushing.

16.96. Menus.

16.96.a. A center shall post menus for all food served a minimum of one (1) week in advance for the parent to see.

16.69.b. A center shall follow written menus as planned and write any changes on the posted menus.

16.69.c. A center shall date menus and keep them on file for a minimum of two (2) months.

16.740. Food Safety. A center shall ensure that:

16.740.a. Food preparation areas, service areas, storage areas, and equipment and utensils are clean and in good repair;

16.740.b. An off-site supplier of meals or snacks has a Food Service Permit;

16.107.c. The Bureau for Public Health has approved the method of transporting and distributing the food ~~taken for a child to consume during a field trip~~ not prepared at the center or is served off-site;

16.107.d. Leftover portions of food that have been served are discarded;

16.740.e. Prior to serving milk to a child, except when its original container is a single service container, staff pours the milk from the original container into a clean, sanitized and labeled bottle or a disposable, sterile bottle liner, or into a sanitized glass or single-service cup and shall not pour the milk back to its original container or store it for later use;

16.107.f. Ice for consumption is made with ~~water from an approved source~~ drinking water; and

16.740.g. Ice used for cooking is not consumed by the child, and water from melted ice used for cooling does not contaminate food to be served.

16.148. Additional Nutrition and Feeding Requirements for a Child Twelve (12) Months of Age and Under.

16.148.a. The center shall feed solid foods and fruit juices to a child 4 months of age and younger only upon the written plan by the child's licensed health care provider.

16.8.b. A center caring for a child twelve (12) months of age and under shall feed the child according to a plan developed in consultation with the parent and may include advice from the child's licensed health care provider. Due to the differences in development and nutritional needs of an infant, the center is not required to provide the baby food an infant not yet eating table food will receive, but must ensure that the parent is providing food that is required to meet the infant's need. The option to have parents supply the baby food must meet the requirements of sub-section 16.9 of this rule.

16.148.bc. When a child is being breast fed, a center shall ensure that the child's plan makes a provision for the mother to provide sufficient portions of breast milk or an alternative to satisfy the child throughout the day, and a center shall not give commercial formula to the child receiving breast milk without written permission from the mother.

16.11.e8.d. For the child between six (6) months and three (3) years of age a center shall not replace formula or breast milk with water.

16.11.d8.e. Until a child is able to hold a bottle securely, a staff member shall hold the child while bottle feeding. When a child is no longer being held for feeding, the staff shall ensure that seating is age-appropriate and shall not prop bottles or allow the child to carry a bottle while moving about or walking.

16.11.e8.f. For food safety a center shall:

16.11.e8.f.1. Store perishable food, formula and expressed breast milk in the refrigerator;

16.11.e8.f.2. Have the parent clearly label each bottle of formula with the child's name, contents and the date received;

16.11.e8.f.3. Have the parent clearly label each bottle of breast milk with the child's name,

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date expressed, date frozen if applicable, and date received;

16.11.e8.f.4. Cap bottles of formula or breast milk during storage;

16.11.e8.f.5. Ensure each staff person follows the hand washing requirement found in Section 17 of this rule prior to preparing a bottle;

16.11.e8.f.6. Thaw frozen breast milk in the refrigerator or under cold running water. The center must not refreeze breast milk;

16.11.e8.f.7. Not use a microwave oven to warm a bottle of formula or breast milk;

16.11.e8.f.8. Not give any formula or breast milk to a child that is not labeled;

16.11.e8.f.9. Discard any unused breast milk after each feeding;

16.11.e8.f.10. Clean and sanitize bottles, bottle caps, and nipples by washing in a dishwasher and storing them in a sanitary manner, or by boiling them for five (5) minutes immediately before filling them; and

16.11.e8.f.11. Handle baby food in the following manner:

16.11.e8.f.11.A. A center shall not accept previously opened baby food containers;

16.11.e8.f.11.B. A center shall remove commercially packaged baby food from its container and serve it in a clean bowl or cup;

16.11.e8.f.11.C. A center shall not place solid food in a bottle or feeder apparatus and shall use a spoon to feed solid food in a sanitary manner; and

16.11.e8.f.11.D. A center shall discard leftover food that has come into contact with the feeding spoon;

16.11.e8.f.12. A center shall handle breast milk and formula in the following manner:

16.11.e8.f.12.A. A center shall store breast milk in hard plastic or glass bottles with tight lids only;

16.11.e8.f.12.B. A center shall remove breast milk and bottles of formula from the refrigerator immediately before using only;

16.11.e8.f.12.C. A center shall discard breast milk or formula when it remains at a temperature higher than forty-one (41) degrees Fahrenheit for more than one (1) hour or within thirty (30) minutes after a child has finished feeding; and

16.11.e8.f.12.D. A center shall use fresh refrigerated breast milk within forty-eight (48)

hours of receipt, breast milk that has been frozen and properly thawed within twenty-four (24) hours of receipt and frozen breast milk within two (2) weeks of receipt if it is reported that it has been stored in the back of a freezer.

16.11.f8.g. In order to provide sufficient amounts of safe drinking water, the center shall ensure that:

16.11.f8.g.1. Drinking water is available to children and staff members and is freely accessible at all times, ~~to a child thirteen (13) months of age and over; and~~

16.11.f8.g.2. A single service drinking cup is discarded after one use, and a non-disposable cup or glass is washed and sanitized after each use.

16.129. A center must offer a nutrition program, but may choose to allow a child to bring meals and snacks to the center if:

16.129.a. The center has written policies that address:

16.129.a.1. Providing parents and staff with nutritional guidelines in this rule;

16.129.a.2. Providing to parents and staff guidelines on the proper preparation and storage of food so that foods do not present a cross-contamination threat;

16.129.a.3. Providing to parents and staff a list of foods the center will not permit, including known food allergens to other children;

16.129.a.4. An explanation to parents of how the center will address the issue if a child does not bring meals or snacks, or if the meals or snacks the child does bring are not within the nutritional guidelines or guidelines provided by the center;

16.129.a.5. That the food prepared from an unapproved source is for consumption by the child and not to be shared with other children or the group.

16.129.b. The center has safe storage and refrigeration of the food as needed. Storage must be approved by the Health Department;

16.129.c. Each child's meal or snack is clearly labeled with the child's first and last names and the date it was brought to the center;

16.129.d. No additional food preparation is required by the center;

16.129.e. The center provides a meal or snack when the parent fails to provide a meal or snack from home;

16.129.f. The center includes children with food allergies in the group during meal or snack time and closely supervises all children under school age during meal or snack time to prevent the cross-

contamination of food or accidental ingestion of a food allergen; and

16.129.g. The center has milk available at meal times in accordance with meal patterns described in Appendix 78-1-C of this rule.

§78-1-17. Sanitation.

17.1. Personal Hygiene. All individuals on the center premises or participating in center activities shall practice good personal hygiene, including:

17.1.a. Hand Washing.

17.1.a.1. Staff members shall wash their hands before starting work; and

17.1.a.2. Staff members and children shall wash their hands with soap and warm, running water for at least twenty (20) seconds:

17.1.a.2.A. When hands are contaminated with body fluids;

17.1.a.2.B. Before preparing, handling or serving food, or setting the table;

17.1.a.2.C. After toileting, handling diapers or assisting a child with toilet use;

17.1.a.2.D. Before and after eating meals or snacks;

17.1.a.2.E. After handling pets or other animals;

17.1.a.2.F. Before giving medication;

17.1.a.2.G. After playing outdoors;

17.1.a.2.H. After handling garbage; and

17.1.2.a.I. After removing gloves used for any purpose.

17.1.b. Universal Precautions. With the exception of breast milk, staff members shall adopt universal precautions when exposed to blood and body fluids that might contain blood; and

17.1.c. Diapering and Toileting. A center shall ensure that diapering and toilet training follow the guidelines in Appendix 78-1-D of this rule.

17.1.c.1. Toilet Training.

17.1.c.1.A. A center shall discuss with the parent and document in the child's record the toilet-training methods to be used with the child being trained.

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17.1.c.1.B. Staff members shall not use any form of punishment in connection with toilet training.

17.1.c.1.C. Staff members shall not force a child to sit on a potty or training chair.

17.1.c.2. Toilet Equipment and Fixtures.

17.1.c.2.A. A center shall disinfect the potty or training chairs after each use; and

17.1.c.2.B. A center shall provide toilet fixtures that are sized so that the child can use them without assistance, and provide step stools, or modified toilet seats that are safe and easily disinfected.

17.2. Physical Facilities.

17.2.a. A center shall keep all areas of the premises and all equipment clean and in a neat and orderly condition at all times.

17.2.b. The center shall ensure that floors, walls and ceiling are of easily cleanable material.

17.2.c. The center shall ensure that the floor area immediately adjacent to the diaper changing table has a moisture-resistant, non-absorbent surface extending three (3) feet from the base of the table on all sides, except when one side of the table is against a wall.

17.2.d. A hand washing sink shall be located in the immediate area of the diaper changing surface; provided that centers licensed prior to the effective date of this rule shall not be considered out of compliance with this requirement, but shall not, after the effective date of this rule, have additional diaper changing space approved without a sink in the immediate area.

§78-1-18. Animals.

18.1. A center shall ensure that animals on the premises show no signs of disease or illness.

18.2. The center shall maintain documentation of current vaccinations on all dogs and cats.

18.3. A center shall not have on the premises ferrets, birds, reptiles, including snakes, lizards and turtles, or any wild or dangerous animals.

18.4. A center shall ensure that a staff member is always present when a child is with an animal.

18.5. A center shall inform the child's parent in advance of the presence of animals at the center.

§78-1-19. Safety and Emergency Operating Procedures.

19.1. A center shall develop, implement and maintain attendance policies and procedures to ensure that it has a current and updated written record of the first and last name of each child who is participating

in center activities, onsite and offsite, and who is being transported in a vehicle provided by the center.

19.2. Daily Attendance Sign-In and Sign Out.

19.2.a. A center shall ensure that the responsible person bringing the child to the center signs the child in as the child arrives and that the responsible person picking up the child signs the child out as the child departs the center.

19.2.b. A center shall require the following sign-in and sign-out information:

19.2.b.1. Arrival time including the date and time;

19.2.b.2. Departure time including the date and time;

19.2.b.3. The name and signature of the responsible person who drops off the child; and

19.2.b.4. The name and signature of the responsible person who picks up the child.

19.2.c. A center shall have an attendance procedure for notifying the parent when a school-age child does not arrive as scheduled.

19.3. Transportation Log.

19.3.a. A center shall provide a passenger log to be kept by the driver of the vehicle, the designated staff member, or the volunteer riding in the vehicle that shall include the first and last names of each child boarding the vehicle. There shall be a notation on the log each time a child boards the vehicle or departs the vehicle.

19.3.b. Immediately upon unloading the last child from a vehicle, or before parking the vehicle, the driver or the designated staff member shall physically search the vehicle to ensure that all children have been unloaded. The transportation log shall then be reviewed either by the driver or the designated staff member to check that the information is correct.

19.3.c. The driver or the designated staff member shall deliver the transportation log to the person responsible for maintaining attendance records.

19.4. Daily Roster.

19.4.a. A center shall prepare a written, daily roster that includes the first and last names of each child in each group of children, the name of the staff member responsible for the group, and the space designated for use by the group both at the center and at off-site locations used during field trips.

19.4.b. Periodically throughout the day, the staff member responsible for each group of children shall check the daily roster to ensure that all children are present or accounted for.

19.4.c. A center shall keep each daily roster in a designated location where it is readily available

in case of emergencies and can be used to confirm attendance following an evacuation from the premises or upon returning from a field trip.

19.4.d. A center shall ensure that its attendance procedures include accounting for a child at all times and taking action when a child is lost on or off the premises.

19.5. Emergency File. A center shall develop and maintain an emergency file with information for each enrolled child that is accessible to all staff members, including at off-site activities.

19.6. Emergency Policies, Procedures and Plan. A center shall develop, implement and maintain policies and procedures for responding to ~~an emergency, including a plan~~ emergencies and disasters:

19.6.a. For medical and non medical emergencies and for situations that could pose a hazard to staff and children, including, a fire, storm, flood, chemical spill, power failure, bomb threat, persons coming onto the premises whose health or behavior may be harmful to a child or staff member or kidnapping;

19.6.b. For evacuation from the center in the event of an emergency that could cause damage to the center or pose a hazard to the staff and children;

19.6.c. For evacuation from a vehicle used to transport children;

19.6.d. That considers the age and physical and mental abilities of the enrolled children; types of emergencies that are likely to affect the area; the requirements of the State Fire Marshal; and advice from the Red Cross or other health and emergency professionals;

19.6.e. For documenting the review of its emergency plans with new staff during orientation and with all staff at least once a year;

19.6.f. For notifying parents of procedures for relocation and reunification during evacuation emergencies and disasters;

19.6.g. For submitting emergency and disaster evacuation plan to the Director of the Office of Emergency Services in the county where the center is located or other designated authority with a procedure to submit any changes to that plan by December 31 of each year;

19.6.hf. For a medical emergency that identifies staff responsible for implementing the plan and includes;

19.6.fh.1. The procedures to be followed;

19.6.hf.2. The location of a center's first aid kit and other emergency supplies;

19.6.hf.3. The location of the child's emergency information;

19.6.hf.4. The name, address and telephone number of a health professional or facility

available to provide medical consultation to the center;

19.6.hf.5. The name, address, telephone number and location of the emergency facility to be used when a center cannot reach the child's parent or licensed health care provider, or when transporting the ill or injured child to the preferred hospital could result in a serious delay in obtaining medical attention;

19.6.hf.6. Identification of a means of transportation that is always available in case of an emergency, and telephone numbers for an ambulance or other transportation that might be required; and

19.6.hf.7. Other emergency telephone numbers as required in this rule; and

19.6.ig. For a non medical emergency that identifies staff members responsible for implementing the plan and includes:

19.6.gi.1. The procedures to be followed;

19.6.ig.2. The location of the center's first aid kit and other emergency supplies;

19.6.ig.3. The location of the child's attendance records and emergency information;

19.6.ig.4. The identification of a safe location within a center where a children and staff members can stay until the threat of danger passes;

19.6.ig.5. A diagram of the routes to be used by the child and staff members to reach the safe location and a copy of the plan for moving to the safe location that the center shall post by the telephone and in each room of the center;

19.6.ig.6. A procedure for notifying the local fire department when a center offers evening or night time care;

19.6.ig.7. A procedure for practicing moving to the safe location within a center at least two (2) times a year and a procedure practicing relocation with staff members two (2) times per year;

19.6.ig.8. A procedure for maintaining a written record of the dates and times when the practice sessions are conducted; and

19.6.ig.9. A procedure for ensuring that a staff member determines that all of the children attending at the time of the non medical emergency are safe during an emergency or practice.

19.7. Evacuation and Drill Plan.

19.7.a. A center shall have a plan for evacuating the center in an emergency posted by the telephone in each room of the center that identifies staff members responsible for implementing the plan that includes:

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19.7.a.1. The procedures to be followed;

19.7.a.2. The location of the child's attendance records and emergency information;

19.7.a.3. A diagram of safe routes by which the child and staff members may exit each area of the center used by the child; and

19.7.a.4. The name and address of a nearby relocation site with a telephone, such as another center, school or public building; and the name and address of a more distant relocation site that the center will use in temporarily relocating during an emergency or disaster, that is available for children and staff members to use until the center can contact the children's parents and reunification can occur. ~~that is available for a child and staff members to use until the center can contact the child's parent.~~

19.7.b. A center shall conduct a fire drill at least two (2) times a month during its regular hours of operation, keeping a written record of the dates and times when fire drills are conducted.

19.7.c. When a center offers evening or night time care, a center shall also conduct fire drills during the hours of operation of its evening or night time program at least once a month.

19.7.d. A center shall ensure that a staff member is responsible for determining that all of the children attending at the time of the event have been evacuated safely during an emergency evacuation or practice.

19.8. Evacuation from a Vehicle.

19.8.a. A vehicle evacuation plan shall be posted in each vehicle regularly used by the center to transport a child that includes:

19.8.a.1. The procedures to be followed;

19.8.a.2. The location of the vehicle's first aid kit and other emergency supplies;

19.8.a.3. The location of the vehicle's transportation passenger log and the children's emergency information; and

19.8.a.4. The name and address of the emergency medical facilities closest to the vehicle's route.

19.8.b. When it provides transportation according to a regular schedule, a center shall conduct a vehicle evacuation drill at least two (2) times a year.

19.8.c. A center shall maintain a written record of the dates and times when vehicle evacuation drills are conducted.

19.8.d. A center shall ensure that a staff member is responsible for determining that all of the children have been evacuated safely during an emergency evacuation or practice.

19.9. Staff Responsibility Regarding Medical Emergencies and Evacuation.

19.9.a. For a medical emergency at a center, a center shall develop, implement and maintain procedures for ensuring that staff members:

19.9.a.1. Attend to the injured child with first aid or follow appropriate emergency procedures if the child is experiencing an acute condition, including an asthma attack, seizure, or life-threatening anaphylactic reaction;

19.9.a.2. Notify the parent or other individual designated by the parent to assume responsibility for the child and inform him or her of the child's illness or injury and the center's response; and

19.9.a.3. Complete the required documentation.

19.9.b. For a medical emergency requiring treatment at a medical facility, a center shall provide staff to:

19.9.b.1. Accompany the ill or injured child to the medical facility;

19.9.b.2. Ensure that signed authorization for treatment accompanies the ill or injured child to a medical facility;

19.9.b.3. Notify the parent or other individual designated by the parent to assume responsibility for the child and inform him or her of the child's illness or injury and the center's response;

19.9.b.4. Inform the medical facility that the ill or injured child is being transported for treatment; and

19.9.b.5. Obtain substitute staff, if needed, to provide adequate supervision for the children who remain at the center.

19.9.c. A center shall ensure that staff members are informed of their responsibilities in the event of an evacuation of the premises or a center's vehicle, as required by the center's procedures and notify the Secretary.

19.10. First Aid Kit. A center shall provide a first aid kit for every twenty (20) children that is stored where it is easily accessible to staff members, but out of reach of the children. The location of the first aid kit shall be clearly marked and in view of the staff member. The kit shall be:

19.10.a. Equipped with band aids, a non mercury thermometer, gauze, tape scissors, tweezers, disposable nonporous gloves, a first aid guide, the telephone number of a poison control center, and pencil and paper. A bottle of clean water shall be stored with or accompany the first aid kit; and

19.10.b. Readily available at all times, including in the outdoor activity area, on all field trips

away from the center and in each vehicle provided by the center for the transportation of children.

19.11. Telephone. A center shall provide at least one (1) operable, ~~direct-landline~~ telephone that is in the center space, is not a pay station or locked telephone, and is available during the center's hours of operation, or shall provide at least one mobile phone that remains on-site at all times. Close to the location of each telephone, a center shall post:

19.11.a. The name, address and telephone number of the center;

19.11.b. A list of emergency numbers, including 911, the fire department, police department, ambulance service, the center's medical consultant and a poison control center;

19.11.c. When a center operates at more than one (1) site, the name and telephone number of the center's principal place of business; and

19.11.d. When a center occupies space it does not own, the name and telephone number of the owner of the building.

19.12. Reporting a Serious Occurrence. A center shall:

19.12.a. Immediately inform the parent or parent's authorized designee when a child is involved in a serious occurrence;

19.12.b. Verbally report the occurrence within twenty-four (24) hours or by the next work day to the Secretary, and before the end of the day, ensure that the staff member in charge prepares and signs a serious occurrence report; and

19.12.c. Complete a report of each serious occurrence ensuring that the report is signed by the staff member completing it and by the child's parent. Copies of the report are to be placed in the child's file and in a separate cumulative file maintained by the center.

§78-1-20. Environmental Safety.

20.1. A center shall take all necessary precautions to ensure an accident-free and smoke-free environment for the children, staff members and visitors to the center.

20.1.a. Smoking and tobacco product use by anyone is prohibited on the premises and everywhere in the presence of children.

20.1.b. Smoking is prohibited anytime in vehicles operated by the center, even in the absence of children.

20.1.c. All tobacco products, lighters and matches shall be kept out of the children's reach and sight.

20.2. Safety of Premises, Furnishings, Equipment and Supplies. A center shall:

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20.2.a. Ensure that the premises, furnishings, equipment and supplies are in good repair and present no hazard to the health and safety of the children;

20.2.b. Only use furnishings, equipment and supplies that meet the standards of the Consumer Product Safety Commission (CPSC) and shall not use any product recalled by the CPSC;

20.2.c. Position indoor and outdoor furnishings, equipment and supplies to:

20.2.c.1. Allow a child freedom to participate in center activities;

20.2.c.2. Permit direct access to emergency exits; and

20.2.c.3. Provide clear sight lines for staff supervision;

20.2.d. Ensure that sleeping equipment, including cribs, ~~playpens~~, cots and beds are a minimum of twenty-four (24) inches apart from each other on all sides;

20.2.e. Maintain a temperature not less than sixty-eight (68) degrees Fahrenheit at floor level and not higher than eighty-five (85) degrees Fahrenheit, in all rooms occupied by a child;

20.2.f. Ensure sufficient lighting by:

20.2.f.1. Providing a minimum of fifty (50) foot candles of illumination at floor level, in rooms occupied by a child for program activities;

20.2.f.2. Providing at least thirty (30) foot candles of illumination at floor level in areas not occupied by a child;

20.2.f.3. Providing light for supervision when a child is sleeping; and

20.2.f.4. Provide outdoor lighting at all entrances and exits used by a child when a center operates evening or night time programs.

20.3. Potential Hazards of Premises, Furnishings, Equipment and Supplies.

20.3.a. Firearm Prohibition. A center shall prohibit firearms unless carried by a regulatory or law enforcement professional in the line of duty; and projectile weapons, including pellet or BB guns, darts, cap pistols, bows and arrows, slingshots and paint ball guns.

20.3.b. Hazardous Chemical and Toxic Items. A center shall ensure that:

20.3.b.1. Products containing potentially hazardous chemicals, including identified poisons, medications, certain cleaning supplies, and art supplies, not clearly labeled as "nontoxic," are inaccessible to the children in a locked cabinet away from food, and when possible, stored in their original containers and never in containers originally designed for food; and

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20.3.b.2. For each product containing potentially hazardous chemicals, a center has on file a material safety data sheet, available at the point of purchase or from the manufacturer.

20.3.c. Lead Paint. A center shall seal or remove lead paint from the premises according to current safety standards and at a time when the children are absent during the entire sealing or removal process. The center shall secure approval from the Health Department prior to implementing a plan to deal with lead paint.

20.3.d. Electrical Equipment.

20.3.d.1. Electrical cords. A center shall ensure that each electrical cord is insulated and in good repair.

20.3.d.2. Extension cords and plug-in strips. A center shall not use an electrical extension cord except on a temporary basis, but if using it shall ensure that the cord is in good repair. A center may use an electrical multiple plug-in strip with a circuit breaker in good repair.

20.3.d.3. Electrical Outlet. A center shall ensure that when an electrical outlet within reach of a child younger than school age is not in use, it is protected by a cover.

20.3.d.4. Electrical Appliance. A center shall not locate an electrical appliance in an activity area used by a child except for a brief period when an adult supervises the use of the electrical appliance for a program.

20.3.e. Microwave Oven. If a center uses a microwave oven, the center shall train staff members in the correct use and potential dangers of the oven and post a warning on or near the oven to check the temperature of food heated in the oven before feeding it to a child.

20.3.f. Heating Devices. A center shall provide a shield to protect the children from a hot pipe or radiator and shall not use unvented fuel fire heaters.

20.3.g. Doors. A center shall ensure that:

20.3.g.1. All doors close properly and fire doors are closed at all times; and

20.3.g.2. All clear glass doors are clearly marked at the children's eye level.

20.3.h. Floors. A center shall firmly anchor all floor coverings.

20.3.i. Barriers and Gates. The center shall ensure that:

20.3.i.1. All temporary walls or items being used as physical barriers are firmly anchored or cannot be moved or tipped by a child so that they pose no threat to the safety of the child; and

20.3.i.2. Stairways to which the child has access have appropriate railings and safety gates or

other barriers at the top and bottom.

20.3.j. Strings, Cords and Hanging Items.

20.3.j.1. When a child wears a piece of clothing with a drawstring, a center shall:

20.3.j.1.A. Inform the child's parent of the potential risk of strangulation; and

20.3.j.1.B. Ensure that prior to the child's participation in an activity, staff members remove or secure any drawstring that might pose a risk to the child.

20.3.j.2. Pacifiers. A center shall ensure that a pacifier attached to a string or ribbon that is six (6) inches or more in length, is not placed around a child's neck or affixed to the child's clothing.

20.3.j.3. A center shall ensure that a child under school age does not have access to a string or cord that is six (6) inches or more in length and attached to a fixed object, such as a window shade, or access to other hanging items, such as a tablecloth.

20.4. Outdoor Safety.

20.4.a. Barriers and Exits.

20.4.a.1. A center shall ensure that the outdoor activity area for a child under school age:

20.4.a.1.A. Is enclosed on all sides by a natural barrier or secure fence that is at least four (4) feet high with a bottom edge that is less than three and one-half (3 ½) inches from the ground;

20.4.a.1.B. If it has a fence, the fence has no openings greater than three and one-half (3 ½) inches;

20.4.a.1.C. If it has a natural barrier, the barrier has the strength and density to prevent humans and animals from entering or exiting the playground;

20.4.a.1.D. If it is attached to a building, the barrier or fence provides at least two (2) exits from the play area, including one (1) exit that is at a distance from the building; and

20.4.a.1.E. When it has an exit that does not lead directly indoors, that it is protected by a gate equipped with a closure mechanism that is out of the reach of a small child and prevents the child from leaving the play area, but can be easily opened by an adult.

20.4.a.2.. A center may use an unenclosed outdoor activity area for school-aged children if it is determined to be hazard-free by the Secretary.

20.4.b.. Surfaces for Play Area. A center shall ensure:

20.4.b.1. That the play area has more than one (1) type of surface, including a surface that is

suitable for children's wheeled vehicles and pull toys;

~~20.4.b.2. That the surface of the play area in an equipment use zone is composed of: complies with the current Consumer Product Safety Commission's publication entitled "Public Playground Safety Handbook", publication # 325, sections 2.4 et seq. and 5.3 et seq.~~

~~20.4.b.2.A. Loose fill, including sand, pea gravel, shredded tires, wood chips or wood mulch, to a depth of at least six (6) inches, increasing with the height of the equipment to twelve (12) inches as recommended by the Consumer Product Safety Commission as specified in Appendix 78-1-E of this rule;~~

~~20.4.b.2.B. A unitary surface, such as rubber tiles or mats, or rubber poured in place; or~~

~~20.4.b.2.C. An appropriate combination of loose fill and unitary surface material;~~

~~20.4.b.3. That hard surface materials, such as asphalt, concrete, bricks, blocks, dirt and grass, are not used in equipment use zones;~~

~~20.4.b.4. That appropriate surface materials are located directly under equipment and extend six (6) feet in all directions from the perimeter of the equipment, except from swings where they extend according to the following:~~

~~20.4.b.4.A. For single axis, traditional swings, through a use zone that is twice the height from the ground to the crossbar, front and back; and~~

~~20.4.b.4.B. For tire swings that rotate, six (6) feet beyond the farthest reach of the tire in all directions; and~~

~~20.4.b.5. That concrete footing are covered by surface material to a depth that is adequate to prevent injury from a fall as recommended by the Consumer Product Safety Commission as specified in Appendix 78-1-E of this rule.~~

20.4.c. Hazards. A center shall ensure that:

20.4.c.1. The play area is well drained and free of debris;

20.4.c.2. The outdoor environment is clear of hazards, including pits and abandoned wells, tree roots, appliances and all potential hazards, including heat pumps, air conditioning units and external wiring, meters and telephone boxes, are inaccessible to the child;

20.4.c.3. The child is protected from moving vehicles; and

20.4.c.4. When there is reason to believe that exposure to the soil in the outdoor activity area might harm the child, it has on file evidence that the soil does not contain hazardous levels of any toxic chemical or substances.

§78-1-21. Pest Management.

21.1. A center shall document that it has an integrated pest management program as required by the WV Department of Agriculture.

21.2. A center shall provide for insect and rodent control that does not compromise the safety of children.

§78-1-22. Transportation.

When providing transportation, a center shall ensure that:

22.1. The vehicle used is currently licensed, inspected, insured, and is equipped with signs and warning lights or alternative warning devices as required by West Virginia Code §17C-12-7a;

22.2. By September 1, 2012, any vehicle used for transportation that has a capacity that exceeds ten (10) passengers meets the National Highway Traffic Safety Administration (NHTSA) standards for a school bus. Provided, that any vehicle used prior to September 1, 2012 for transportation that has a capacity that exceeds ten (10) passengers and does not meet the NHTSA standards shall follow the recommendation of the NHTSA for preventing rollover;

22.3. By July 1, 2008, any center which provides transportation in a vehicle with a capacity that exceeds ten (10) passengers and does not meet the standards for a school bus shall submit a plan to the Secretary for how the center will comply with requirement 22.2. of this subsection;

22.4. The driver holds a current driver's license for the type of vehicle being driven;

22.5. The driver or a qualified staff member ensures that each child is in an approved child safety restraint system that meets the federal recommendations of the National Highway Traffic Safety Administration (NHTSA), either a child safety seat or booster seat or seat belt, and is secured with seat belts at a ratio of one child per seat belt;

22.6. The vehicle is equipped with emergency supplies, including a first-aid kit, fire extinguisher, and, if only one adult is in the vehicle, a mobile telephone or two-way radio;

22.7. When the center owns the vehicle, identifying information is placed on the outside of the vehicle, which can be read by a pedestrian or other passing vehicle, that includes the name, address and telephone number of the center; and

22.8. When the center owns the vehicle, a weekly safety check is conducted and recorded. The safety check shall include vehicle tire pressure, headlights, windshield wipers, emergency flashers, brake lights, turn signals, first aid kit, gas gauge, oil and other fluids.

§78-1-23. School-Age Program.

23.1. Centers which operate school-age programs shall comply with previous sections of this rule

except as follows:

23.2. Training.

23.2.a. Prior to working with children, staff in a summer recreation camp or day camp shall have:

23.2.a.1. Current CPR certification appropriate to the age of the children in care;

23.2.a.2. Current child first aid training;

23.2.a.3. Training in child abuse recognition and prevention;

23.2.a.4. Approved training in medication administration if applicable;

23.2.a.5. Training in guidance and discipline, behavior management, and conflict resolution related to the age of children in care; and

23.2.a.6. An additional four (4) hours of instructional training related to camp responsibilities.

23.2.b. Summer recreation camp and day camp staff are not required to maintain a WVTCECE credential.

23.2.c. Summer recreation camps and day camps shall have a plan for training late-hires and substitutes who were unable to attend pre-camp training.

23.3. Staff Responsibilities and Qualifications.

23.3.a. In addition to the qualifications stated in Section 9 of this rule, qualified staff members acting as a person in charge in a summer recreation camp or day camp shall:

23.3.a.1. Be at least 21 years of age;

23.3.a.2. Have at least one (1) season of leadership experience in a summer recreation program; and

23.3.a.3. Have knowledge of the camp administrative practices.

23.3.b. Director

23.3.b.1. When the center operates a school-age program only, the director may substitute the early childhood credit hours described in Section 9 of this rule with credit hours in elementary education;

23.3.b.2. The director of a summer recreation camp shall substitute the early childhood credit hours described in Section 9 of this rule with credit hours in recreation or elementary education;

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23.3.c. Qualified staff positions may substitute the early childhood credit hours described in Section 9 of this rule with credit hours in elementary education.

23.3.d. Teen aides used in school-age programs shall be at least 16 years of age.

23.4. Supervision of children in groups.

23.4.a. In determining and maintaining the staff:child ratio, the school-age program shall not include any staff member who is performing other duties such as cooking, bookkeeping, or any individual with designated responsibility for a special activity except in an emergency situation when staff may be reassigned to supervise the children.

23.4.b. In a summer recreation camp program, a certified lifeguard employed by the center may be used to meet staff:child ratio provided the program is using a pool that is reserved exclusively for the program and at least one other staff person who is not lifeguarding is present to supervise the group.

23.4.c. An individual school-age child may be permitted to go to a non-public rest room unattended if the restroom is within vision of a supervising staff person.

23.4.d. Two or more school-age children going to the same restroom at the same time must be accompanied to the restroom by staff and be within staff hearing at all times.

23.5. Staff interaction, Guidance and Supervision

23.5.a. The school-age program shall group children according to their developmental levels and skill levels taking into account that the physical, emotional, intellectual, and social development of early middle childhood differs from that of older middle childhood and pre-adolescence.

23.5.b. A center shall ensure that staff members in school-age programs have the skills and training to respond to the needs of the older child and recognize that interactions with the school-age child differ significantly from interactions with the younger child. The staff members shall:

23.5.b.1. Be available and responsive to the child;

23.5.b.2. Engage the child in meaningful conversation about events of importance and topics of interest, encouraging the child to share experiences, ideas and emotions;

23.5.b.3. Listen to the child with attention and respect;

23.5.b.4. Help a child develop problem-solving skills by describing problems and encouraging him or her to evaluate the situation;

23.5.b.5. Facilitate learning by guiding, providing positive reinforcement, encouraging efforts and recognizing accomplishments; and

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25.5.b.6. Have developmentally appropriate expectations of a child's social behavior.

23.5.c. At all times, staff members shall provide positive guidance that is appropriate to each child's age, understanding and circumstances. Staff members shall:

23.5.c.1. Teach by example;

23.5.c.2. Recognize and encourage acceptable behavior;

23.5.c.3. Make eye contact with the child whenever possible when speaking to the child;

23.5.c.4. Supervise with kindness, understanding and firmness;

23.5.c.5. Set expectations for behavior, define clear limits, set fair and consistent rules and when appropriate, permit the school-age child to participate in the development of rules and procedures;

23.5.c.6. Help a child develop self control to assume responsibility for his or her own actions;

23.5.c.7. State expectations in the positive; and

23.5.c.8. Visually post expectations so that children are encouraged to regulate their own behaviors.

23.5.d. When unacceptable behavior persists with the school-age child, the qualified staff member in accordance with the child's age and developmental level shall:

23.5.d.1. Talk with the child privately and calmly;

23.5.d.2. Help the child to verbalize the expectation that is not being met;

23.5.d.3. Help the child to verbalize the reason for the expectation;

23.5.d.4. Help the child to verbalize acceptable choices and possible solutions; and

23.5.d.5. Help the child to verbalize possible consequences if the unacceptable behavior continues.

23.5.e. When conflict between children becomes physical, staff shall intervene immediately and use positive problem-solving methods.

23.6. Space. When a center operates a summer recreation camp:

23.6.a. The center shall provide at least ten (10) square feet of useable indoor activity space per child inside or provide a covered permanent structure that has the required activity space;

23.6.b. The center shall submit a plan for the Secretary's approval for outdoor activity space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

23.7. Toilets. A summer recreation camp program that receives written approval from the local health department may use a commercial portable toilet and warm water, soap, paper towels, rinse water and a pit or other method for disposing of waste water.

23.8. Program. Programs for school-age children shall:

23.8.a. Meet the goals of the center as established by the statement of purpose;

23.8.b. Be based on knowledge of child development for the school-age child;

23.8.c. Have a schedule for routines that is posted and is predictable and in accordance with Subsection 14.1 of this rule other than the following:

23.8.c.1. Out-of-school time programs shall reflect the time of day and the number of hours that care is provided before school, after school, and on days when school is closed;

23.8.c.2. Out-of-school time programs shall provide activity that transitions the child from home to school in the morning and from school to home in the evenings;

23.8.c.3. Summer recreation camps shall have a schedule that provides for outdoor and/or off-site activity 80% of the time weather permitting;

23.8.d. Have varied and well-planned activities;

23.8.e. Have a qualified staff person verbally communicate the expectations for each activity;

23.8.f. Have activities which are age appropriate, offer challenges and incorporate skill level progression of the school-age child;

23.8.g. Offer options when it is recognized that the skill level is too difficult for the child;

23.8.h. Engage children in decision making and program activity development;

23.8.i. Offer the opportunity for projects that can be completed independently with only guidance from staff;

23.8.j. Offer group projects, group play and interest group involvement;

23.8.k. Offer interest centers such as art, dramatic play, school work, science, nature, music, reading, construction, physical activity;

23.8.l. Include activities within the community such as field trips, community work projects or

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volunteer activities;

23.8.m. Include diversity within activities;

23.8.n. Offer activities without bias to gender; and

23.8.o. Encourage the development of life skills.

23.9. A center operating a summer recreation camp may allow for an occasional overnight activity. When offering the overnight activity the summer recreation camp shall:

23.9.a. Have a written plan of the activity and its oversight that is kept in an administrative file;

23.9.b. Provide staff with written instructions on the operation of the activity;

23.9.c. Provide parents with written information and any special instructions for the activity;

23.9.d. Ensure that the child's daily nutritional requirements are met;

23.9.e. Ensure there is safe drinking water available;

23.9.f. Provide a mat, cot or bed for each child;

23.9.g. Not have a child in care for more than 24 hours; and

23.9.h. Ensure that no staff member must remain awake for more than 18 hours and that if children are sleeping at least one staff member is awake at all times.

23.10. Nutrition. A center with an out-of-school time program shall serve a snack to the school-age child arriving after school;

23.11. Emergency procedures. A summer recreation camp and day camp shall comply with Section 19 of this rule regarding emergency procedures except as set forth in this subsection:

23.11.a. The camp shall have a procedure for practicing moving to the safe location within the first two (2) days of camp and mid-way through the summer;

23.11.b. The camp shall teach and implement a system that has staff and children taking account of children in the camp and immediately reporting if a child is missing;

23.11.c. A qualified staff member assigned to each group of children shall be responsible for carrying or having immediately available a first aid kit; and

23.11.d. When a center operates a summer recreation camp program or day camp program at a site where a direct-line telephone is not available then the center shall ensure that staff members have access to a working communication device that will allow contact to emergency personnel.

§78-1-24. Enforcement Actions.

The secretary may revoke or make a license provisional, or issue an order of closure to a Child Care Center in accordance with West Virginia Code §§49-2B-11 and -12.

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**TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HUMAN SERVICES**

**SERIES 1
CHILD CARE CENTER LICENSING**

APPENDICES

78-1 A: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITIES

78-1 B: REPORTABLE ILLNESSES

| 78-1 C: NUTRITION -- ~~FOOD GROUPS AND MEAL~~ AND SNACK PATTERNS

78-1 D: DIAPER CHANGING AND TOILET TRAINING

| ~~78-1 E: OUTDOOR SURFACES~~

| 78-1 ~~FE~~: STAFF:CHILD RATIO

APPENDIX 78-1 A: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITIES

TABLE A: EQUIPMENT AND MATERIALS FOR THE CHILD UP TO 6 MONTHS OF AGE	
Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Non-breakable Mirrors: well-secured crib and wall mirrors; Dolls: soft-bodied or rag dolls; Stuffed Toys: washable stuffed toys and play animals; Puppets: simple hand puppets of visual and social interest for holding by adults.
Exploration and Mastery of Skills and Language	Visuals: materials that provide a focus for the child's eyes; Grasping Toys: simple rattles, teething toys, squeeze toys, sturdy cloth toys, disks or keys on a ring, interlocking rings, grasping balls.
Music, Art and Movement	Musical Instruments: bell on a handle, wrist or ankle bells, rattles; Audio-Visual: adult-operated music boxes, tapes or discs with gently rhythmic songs or lullabies.
Gross Motor	Large-Movement: balls to clutch.

TABLE B: EQUIPMENT AND MATERIALS FOR THE CHILD 7 TO 12 MONTHS OF AGE	
Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Non-breakable Mirrors: well-secured wall mirrors, unbreakable hand mirrors; Dolls: soft-bodied or rag dolls; Stuffed Toys: washable stuffed toys and play animals, soft rubber or vinyl animals for grasping and exploring; Puppets: simple hand puppets of visual and social interest for holding by adults; Transportation: simple transportation toys of one piece with wheels or rollers that may make a noise when pushed (for the child who can sit and is mobile).
Exploration and Mastery of Skills and Language	Grasping Toys: teething toys, beads on rings, rubber or plastic pop beads, squeeze-squeak toys, sturdy cloth toys, disks or keys on a ring, interlocking rings, grasping balls; Construction: light-weight blocks for grasping and stacking; Puzzles: simple two- or three-piece fit-together objects used as grasping toys; Skill-Development: pop-up boxes, simple activity boxes or cubes, texture pads, simple nesting cups, stacking ring cones, container to empty and fill; Books: small picture books of cloth or plastic or cardboard to hold; simple picture books for lap reading.
Music, Art and Movement	Art and Crafts: large, nontoxic crayons, large paper taped to a surface; Musical Instruments: bell on a handle, wrist or ankle bells, rattles or materials that make a sound when shaken, banging materials that are simple and light-weight; Audio-Visual Materials: adult-operated tapes or discs with simple rhymes and songs.
Gross Motor	Large-Movement: push and pull toys without rods, such as simple cars on large wheels or rollers; Balls and Sports: balls, including clutch and texture balls, chime, flutter and action balls; Outdoor and Gym: safe swings sized and designed for infants, low soft or padded climbing platforms for the child who crawls.

TABLE C: EQUIPMENT AND MATERIALS FOR THE CHILD 13 - 24 MONTHS OF AGE	
Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Non-breakable Mirrors: well-secured unbreakable wall mirrors, unbreakable full-length and hand mirrors; Dolls: soft-bodied or washable rubber or vinyl baby dolls (no moving eyes or articulated limbs), simple accessories for care giving (feeding, diapering and sleeping), dolls clothes that are simple and removable, and (from about 18 months) small peg or other people figures that can not be swallowed; Stuffed Toys: washable, soft animals with features that are painted, stitched or molded and soft rubber or vinyl animals for exploration and beginning pretend play; Puppets: hand puppets for holding by adults and (from about 18 months) small hand puppets sized to fit the child's hand; Transportation: simple, light-weight vehicles, with large wheels or rollers, that are light-weight, rounded or molded in appearance and may make a noise when pushed, first trains with one or two cars and a simple or no coupling system but no tracks, and (from about 18 months) more detailed vehicles or trains with simple coupling systems such as wood links, blunt hooks or magnets; Role-Play: play telephone, simple housekeeping and work-role equipment, simple doll equipment; Play Scenes: (from about 18 months) small people or animal figures with simple supporting materials such as a vehicle or barn, or unit blocks to make familiar scenes.
Exploration and Mastery of Skills and Language	Grasping Toys: (the child may be losing interest in small hand-held manipulatives); Sand and Water: simple floating objects that are easily grasped in one hand, a small shovel and pail, and (from about 18 months) nesting materials for pouring, funnels, colanders, water activity centers and small sand tools; Construction: light blocks made of soft cloth, rubber or rounded plastic, wooden cubes for grasping and stacking (15 -- 25 pieces) and (from about 18 months) unit blocks (20 -- 40 pieces), large plastic bricks of the press together type; Puzzles: simple pre-puzzles or form boards in familiar shapes (2-3 pieces) and (from about 18 months) fit-in puzzles with very firmly attached knobs (3-5 pieces); Skill-Development: pop-up boxes that operate easily, simple activity boxes or cubes with doors, lids or switches, simple nesting cups and stacking materials, and (from about 18 months) activity boxes with more complex mechanisms such as a turning knob or dial or simple key, simple lock boxes, more complex nesting materials, objects in closed containers that may be opened, stacking materials (4-5 pieces), cylinder blocks, pegboards with a few large pegs, simple matching and lotto materials; Books: picture books made of cloth, plastic or cardboard, simple picture and rhyme book with repetition for lap reading, and (from about 18 months) touch-me or tactile books.
Music, Art and Movement	Art and Crafts: a few large, nontoxic crayons and large paper taped to a surface; Musical Instruments: rhythm instruments operated by shaking (bell, rattles) and (from about 18 months) instruments for banging (cymbals, drums); Audio-Visual Materials: adult-operated tapes or discs, music with simple repeating rhythms, rhymes and songs, and (from about 14 months) music to "dance" (bounce) to, and (from about 18 months) simple point-to and finger-play games and songs.
Gross Motor	Large-Movement -- Push and Pull Toys: push toys with rods with handles on the ends, toys to push along the floor, including simple cars or animals on large wheels or rollers, and (from about 18 months) simple doll carriages and wagons and push and pull toys filled with multiple objects; Balls and Sports: soft, light-weight balls especially balls with interesting audio or visual effects, larger balls including balls the size of beach balls, and (from about 18 months) balls for beginning throwing and kicking; Ride-On Equipment: stable ride-ons propelled by pushing with the feet, ride-ons with storage bins; Outdoor and Gym: climbing platforms that are low, sort or padded, tunnels for climbing through, baby swings made of energy-absorbing materials with seats curved or body shaped and a front closing, and (from about 18 months) low toddler stairs with handrails.

TABLE D: EQUIPMENT AND MATERIALS FOR THE CHILD 24 - 36 MONTHS OF AGE	
Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Non-breakable Mirrors: well-secured unbreakable wall mirrors, unbreakable hand mirrors; Dolls: soft-bodied or washable rubber or vinyl baby dolls, simple accessories for care giving (feeding, diapering and sleeping), dolls clothes that are simple and removable, small peg or other people figures for fantasy scenes; Stuffed Toys: soft rubber, wood or vinyl animals for exploration and pretend play, including mother and baby animals; Puppets: small hand puppets sized to fit the child's hand and representing familiar human and animal figures and community diversity; Transportation: small cars and vehicles to use with unit blocks; larger vehicles for pushing and fantasy play, large wood trucks to ride on, simple trains with coupling systems but no tracks; Role-Play: dress-up materials, housekeeping equipment, simple doll equipment; Play Scenes: small people or animal figures with simple supporting materials such as a vehicle or barn, or unit blocks to make familiar scenes.
Exploration and Mastery of Skills and Language	Sand and Water: people, animals and vehicles for fantasy play, small containers for pouring, small tools such as a shovel or scoop; Construction: wooden unit blocks, large plastic bricks, large nuts and bolts; Puzzles: 4-5 pieces fit-in puzzles (from 24 months), and (from 30 months) 6-12 pieces fit-in puzzles; Skill-Development: 5-10 pieces to nest or stack, simple lock boxes, hidden-object pop-up boxes, safe pounding/hammering toys, cylinder blocks, shape sorters, matching materials, color or picture dominoes, feel bags or boxes or smell jars; Books: sturdy books with heavy paper or cardboard pages, tactile or touch-me, pop-up or hidden picture and dressing books; Pattern-Making: peg-boards with large pegs, color cubes, magnetic boards with forms; Dressing, Lacing, Stringing: large beads, cards and frames.
Music, Art and Movement	Art and Crafts: large, nontoxic crayons and markers, adjustable easel, large paint brushes, nontoxic paint and finger paint; large paper, colored construction paper, blunt-ended scissors, chalkboard and large chalk; Musical Instruments: rhythm instruments operated by shaking (bell, rattles) or banging (cymbals, drums) and more complex instruments (tambourine, sand blocks, triangle, rhythm sticks); Audio-Visual Materials: adult-operated tapes or discs, music with repeating rhythms for rhythm instruments, music to "dance" (bounce) to, simple point-to and finger-play games and songs, short films and videos of familiar objects and activities.
Gross Motor	Large-Movement -- Push and Pull Toys: simple doll carriages and wagons, push toys that look like adult equipment; Balls and Sports: balls of all sizes, especially balls for kicking and throwing; Ride-On Equipment: stable ride-ons propelled by pushing with the feet, bouncing or rocking ride-ons, and (as the child nears 36 months) small tricycles; Outdoor and Gym: tunnels, appropriately sized and safe swings, low climbing structures and slides.

TABLE E: EQUIPMENT AND MATERIALS FOR THE CHILD 36 -72 MONTHS OF AGE	
Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Mirrors: full-length mirrors, unbreakable hand mirrors; Dolls: washable rubber or vinyl baby dolls and (for the child over 60 months), child-proportioned dolls with culturally relevant features and skin tones, accessories for care giving (feeding, diapering and sleeping), dolls clothes that are simple and removable, small peg or other people figures for fantasy scenes; Stuffed Toys: rubber, wood or vinyl animals for pretend play and to provide replicas of real domestic and wild animals for learning; Puppets: small hand or arm or finger puppets sized to fit the child's hand and representing familiar human and animal figures and community diversity, simple puppet theater; Transportation: cars and vehicles to use with unit blocks; larger vehicles with simple working parts for pushing and fantasy play, large wood trucks to ride on, small trains with magnetic or hook connections and simple wood tracks; Role-Play: detailed and culturally-relevant dress-up materials and props, housekeeping equipment, doll equipment; Play Scenes: small people or animal figures with simple supporting materials such as a vehicle or road sign or barn, to use with blocks or other materials to make familiar scenes.
Exploration and Mastery of Skills and Language	Sand and Water: people, animals and vehicles for fantasy play, small containers for pouring or measuring, large and small sand tools, and (after 48 months) sand molds and a water pump; Construction: wooden unit blocks, large hollow blocks, plastic bricks, and (from 48 months) most types of interlocking blocks, except metal or very small blocks; Puzzles: (at 36 months) fit-in or framed -- puzzles up to 30 pieces; (at 48 months), 20-30 pieces; (at 60 months) up to 50 pieces; simple jig-saw puzzles -- 10-25 pieces; number and letter puzzles, puzzle clocks; Skill-Development: materials for matching and sorting and ordering, geometric concept materials, number materials that are simple and concrete, measuring materials, simple mechanical devices such as gears and levers, science materials, natural materials to sort, plants and animals to care for, printmaking materials, beginning computer software; Books: picture books with simple stories and rhymes, complex pop-up books, age-appropriate stories; Pattern-Making: peg-boards with smaller pegs, color cubes, magnetic boards with forms, and (from 48 months) a variety of beads for stringing, mosaic books, felt boards, and (by 60 months) block printing materials; Dressing, Lacing, Stringing: cards and frames for lacing and sewing and (from 60 months) beginning weaving materials; Games: dominoes based on color or picture, simple matching and lotto games, bingo, and (from 48 months) simple card games and games requiring fine motor coordination, first board games based on chance not strategy, and (from 60 months) dominoes based on number and bingo or lotto based on letter or number matching.
Music, Art and Movement	Art and Crafts: large, nontoxic crayons and markers in many colors, adjustable easel, paint brushes of various sizes, nontoxic paint and finger paint; large paper, colored construction paper, easy-to-use-round-ended scissors, chalkboard and large chalk, paste and nontoxic glue, collage materials, clay and dough and tools, and (from 48 months) workbench and hammer, and (from 60 months) smaller crayons and markers, watercolor paints and simple sewing forms with blunt needles; Musical Instruments: all rhythm instruments, blowing instruments (for one-child use only) Audio-Visual Materials: live or recorded music for singing, movement or use with rhythm instruments, adult-operated tapes or discs with songs, rhymes and stories for listening, short films and videos.
Gross Motor	Large-Movement -- Push and Pull Toys: small wagons and wheelbarrows, push toys that look like adult equipment, and (from 60 months) full-sized wagons and sweepers that really work; Balls and Sports: balls of all sizes, especially balls for kicking and throwing, and (from 48 months) lightweight softballs and bats, and (from 60 months) jump rope and a lightweight flying disc; Ride-On Equipment: tricycles sized to the child, three and four-wheeled pedal toys, vehicles with a steering mechanism, full size rocking or bouncing "horse," ride-ons that several children can use together, and (from 48 months) low-slung tricycles; Outdoor and Gym: stationary outdoor climbing equipment, appropriately sized and safe swings, and (from 48 months) slides with side rails and ladders and ropes or hanging bars and rings on a swing or climbing equipment and outdoor building materials.

TABLE F: EQUIPMENT AND MATERIALS FOR THE CHILD 6 -8 YEARS OF AGE	
Type of Materials	Types of Supplies and Equipment
Social and Fantasy	Mirrors: mirrors that adults would use, unbreakable hand mirrors; Dolls: washable rubber or vinyl baby dolls with culturally relevant features and skin tones and accessories for care giving (feeding, diapering and sleeping), small peg or other people figures for fantasy scenes; Stuffed Toys: realistic rubber, wood or vinyl animals to incorporate into scenes and models or show characteristics for learning; Puppets: puppets that represent familiar and fantasy figures for acting out stories, simple puppet theater; Transportation: generic small models of cars and vehicles, construction or workbench materials to make models of forms of transportation; Role-Play: materials for creating and practicing real-life activities and letter-creating materials; Play Scenes: small people or animal figures with supporting materials to create fantasy scenes or models related to curriculum themes.
Exploration and Mastery of Skills and Language	Construction: large number of varied materials for detailed construction and for creating models (including metal parts and nuts and bolts); Puzzles: three-dimensional puzzles, and jig-saw puzzles with 50 to 100 pieces; Skill-Development: materials for making books, math manipulatives and fraction and geometrical materials, measuring materials, science materials, natural materials to examine and classify, plants and animals to study and care for, computer programs for language arts and books at a wide variety of difficulty levels for children to read, story books for reading aloud, books made by the children; Books: picture books with simple stories and rhymes, complex pop-up books, age-appropriate stories; Pattern-Making: mosaic tiles, geometric puzzles, art and craft materials for creating permanent designs; Dressing, Lacing, Stringing: bead stringing, braiding, weaving, spool-knitting and sewing materials; Games: simple card and board games, games based on words, reading and spelling, memory, and numbers and counting (dominoes, Pachisi) and beginning strategy games (checker, Chinese checkers).
Music, Art and Movement	Art and Crafts: a large variety of materials -- crayons, markers, colored pencils, art chalks and pastels -- in many colors, paint brushes of various sizes, a variety of paints including water colors, a variety of art papers for drawing and tracing and painting, regular scissors, paste and nontoxic glue, collage materials, clay that hardens, tools, more complex printing equipment, craft materials -- simple looms, leather for sewing and braiding, papier-mache, plaster of paris, beads for jewelry- and a workbench with tools and wood for projects; Musical Instruments: a wide range of real instruments Audio-Visual Materials: live or recorded music for singing, movement or use with rhythm instruments, adult-operated tapes or discs with songs, rhymes and stories for listening or for the child's independent use.
Gross Motor	Balls and Sports: youth or standard-size balls and equipment for beginning team play, materials for target activities; Ride-On Equipment: (riding bicycles is no longer considered a center activity); Outdoor and Gym: complex climbing structures including ropes, ladders, hanging bars and rings.

Source: Adapted from Martha B. Bronson, *The Right Stuff for Children Birth to 8: Selecting Play Materials to Support Development* (Washington, D.C.: National Association for the Education of Young Children, 1995.)

APPENDIX 78-1 B: REPORTABLE ILLNESSES *

Reporting of the following communicable diseases* is required by State Law (West Virginia Code 16-3-1 and Division of Health Rule, "Reportable Diseases, Events and Conditions", 64CDR7. This list is updated periodically by the Bureau for Public Health.

AIDS (within 30 days)
 Amebiasis (*Entamoeba histolytica*)
 Anthrax (*Bacillus anthracis*)
 Botulism (*Clostridium botulinum*) **
 Brucellosis (*Brucella abortus*, *B. melitensis*, *B. suis*, *B. canis*)**
 Campylobacteriosis (*Campylobacter jejuni*, *C. coli*)
 Chancroid
 Chickenpox (Varicella) -- Numerical totals only
Chlamydia trachomatis
 Cholera (*Vibrio cholerae*)
 Cryptosporidiosis (*Cryptosporidium parvum*)
 Cyclospora infection
 Dengue Fever
 Diphtheria (*Corynebacterium diphtheriae*)**
 E. coli O 157:H7 Disease
 Encephalitis, arboviral
 Eastern Equine Encephalitis
 LaCrosse Encephalitis (California Group)
 St. Louis Encephalitis
 West Nile Virus
 Encephalitis, Other primary and unspecified
 Food borne Disease
 Giardiasis (*Giardia lamblia*)
 Gonococcal Disease -- Drug-resistant disease, Neonatal conjunctivitis, or Pelvic Inflammatory Disease (within 24 hours)
 Gonococcal Disease -- All other
Haemophilus Influenzae, Invasive Disease**
 Hantavirus Disease**
 Hemolytic Uremic Syndrome, postdiarrheal
 Hepatitis A, acute**
 Hepatitis B, acute or perinatal**
 Hepatitis C/other non-A or non-B, acute**
 Hepatitis Delta**
 Herpes, Genital
 HIV (within 30 days)
 Influenza-Like Illness -- Numerical totals only
 Leptospirosis**
 Listeriosis (*Listeria monocytogenes*)
 Lyme Disease (*Borrelia burgdorferi*)**
 Malaria**
 Meningitis, Other Bacterial -- organisms not otherwise listed**
 Meningitis, Viral or Aseptic
 Mumps
 Outbreaks, suspect or confirmed
 Pertussis (Whooping Cough) (*Bordetella pertussis*)**

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Plague (*Yersinia pestis*)
Poliomyelitis**
Psittacosis (*Chlamydia psittaci*)
Rabies, human**
Rheumatic Fever
Rocky Mountain Spotted Fever**
Rubella Congenital Syndrome
Rubella (German measles)**
Rubeola (Measles)**
Salmonellosis (except Typhoid Fever -- listed separately)
Shigellosis (*Shigella dysenteriae*, *S. boydii*, *S. flexneri*, *S. sonnei*)
Streptococcal Disease, Group A Invasive and/or Streptococcal Toxic Shock Syndrome (*S. pyogenes*)**
Streptococcus pneumoniae, drug-resistant invasive disease -- include antibiotic susceptibility patterns**
Syphilis -- primary, secondary, early latent, or congenital (within 24 hours)
Syphilis -- late latent, late symptomatic, or neurosyphilis
Tetanus (*Clostridium tetani*)**
Trichinosis**
Tuberculosis -- include antibiotic susceptibility patterns
Tularemia (*Francisella tularensis*)
Typhoid Fever (*Salmonella typhi*)**
Waterborne Disease
Yellow Fever
Unexplained or ill-defined illness, condition, or health occurrence of potential public health significance
*This is a general information list. The official list can be found in the reportable disease rule.
**A supplemental CDC or WVBPH report form is required in addition to the general case report

STDs, HIV/AIDS, and tuberculosis are reported on special forms. Other diseases are submitted on the general "Confidential Reportable Disease Case Report." All report forms (general, supplemental, STD, Tuberculosis, and HIV/AIDS) can be obtained from your local health department. For questions or disease reporting or for epidemiologic consultation, call your local health department or the WV Bureau for Public Health, Division of surveillance and Disease Control: HIV/AIDS Surveillance 1-800-423-1271; Immunization Program 1-800-642-3634; STD Program 1-800-642-8244; Tuberculosis Program 1-800-330-8126; all other diseases 1-800-423-1271 or 304-558-5358. The website address is: www.wvdhhr.org/bph.

For emergency contact information after hours, call 1-304-558-4117.

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APPENDIX 78-1 C: NUTRITION --MEAL AND SNACK PATTERNS

When planning meals and snacks, child care centers shall follow the meal and snack patterns developed for the United States Department of Agriculture's (USDA) Child and Adult Care Food Program (CACFP). The tables shown are current at the effective date of this rule; please refer to the following web site for current meal and snack patterns: http://www.fns.usda.gov/cnd/care/programbasics/meals/meal_patterns.htm

A: MEAL PATTERNS FOR THE CHILD UP TO 12 MONTHS OF AGE

<u>Infant Meal Pattern</u> <u>Breakfast</u>		
Birth through 3 Months	4 through 7 Months	8 through 11 Months
4-6 fluid ounces of formula ¹ or breastmilk ^{2,3}	4-8 fluid ounces of formula ¹ or breastmilk ^{2,3} ; 0-3 tablespoons of infant cereal ^{1,4}	6-8 fluid ounces of formula ¹ or breastmilk ^{2,3} ; and 2-4 tablespoons of infant cereal ¹ ; and 1-4 tablespoons of fruit or vegetable or both
¹ Infant formula and dry infant cereal must be iron-fortified. ² Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months. ³ For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry. ⁴ A serving of this component is required when the infant is developmentally ready to accept it.		
IB		

Infant Meal Pattern Lunch or Supper

Birth through 3 Months	4 through 7 Months	8 through 11 Months
4-6 fluid ounces of formula ¹ or breast milk ^{2,3}	4-8 fluid ounces of formula ¹ or breast milk ^{2,3} ; 0-3 tablespoons of infant cereal ^{1,4} ; and 0-3 tablespoons of fruit or vegetable or both ⁴	6-8 fluid ounces of formula ¹ or breast milk ^{2,3} ; 2-4 tablespoons of infant cereal ¹ ; and/or 1-4 tablespoons of meat, fish, poultry, egg yolk, cooked dry beans or peas; or ½-2 ounces of cheese; or 1-4 ounces (volume) of cottage cheese; or 1-4 ounces (weight) of cheese food or cheese spread; and 1-4 tablespoons of fruit or vegetable or both
<p>¹ Infant formula and dry infant cereal must be iron-fortified.</p> <p>² Breastmilk or formula, or portions of both, may be served; however, it is recommended that breast milk be served in place of formula from birth through 11 months.</p> <p>³ For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.</p> <p>⁴ A serving of this component is required when the infant is developmentally ready to accept it.</p>		

Infant Meal Pattern Snack

Birth through 3 Months	4 through 7 Months	8 through 11 Months
4-6 fluid ounces of formula ¹ or breast milk ^{2,3}	4-6 fluid ounces of formula ¹ or breast milk ^{2,3}	2-4 fluid ounces of formula ¹ or breast milk ^{2,3} or fruit juice ⁵ ; and 0-½ bread ^{4,6} or 0-2 crackers ^{4,6}
<p>¹ Infant formula and dry infant cereal must be iron-fortified.</p> <p>² Breastmilk or formula, or portions of both, may be served; however, it is recommended that breast milk be served in place of formula from birth through 11 months.</p> <p>³ For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.</p> <p>⁴ A serving of this component is required when the infant is developmentally ready to accept it.</p> <p>⁵ Fruit juice must be full-strength.</p> <p>⁶ A serving of this component must be made from whole-grain or enriched meal or flour.</p>		

IS

**Child Meal Pattern
Breakfast**

Select All Three Components for a Reimbursable Meal

Food Components	Ages 1-2	Ages 3-5	Ages 6-12¹
1 milk			
fluid milk	1/2 cup	3/4 cup	1 cup
1 fruit/vegetable			
juice, ² fruit and/or vegetable	1/4 cup	1/2 cup	1/2 cup
1 grains/bread³			
bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup

¹ Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.

² Fruit or vegetable juice must be full-strength.

³ Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.

CB

Child Meal Pattern Lunch or Supper

<u>Food Components</u>	<u>Ages 1-2</u>	<u>Ages 3-5</u>	<u>Ages 6-12¹</u>
1 milk			
fluid milk	1/2 cup	3/4 cup	1 cup
2 fruits/vegetables			
juice, ² fruit and/or vegetable	1/4 cup	1/2 cup	3/4 cup
1 grains/bread³			
bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate			
meat or poultry or fish ⁴ or	1 ounce	1 1/2 ounces	2 ounces
alternate protein product or			
cheese or	1 ounce	1 1/2 ounces	2 ounces
egg or	1/2 egg	3/4 egg	1 egg
cooked dry beans or peas or	1/4 cup	3/8 cup	1/2 cup
peanut or other nut or seed butters or	2 Tbsp.	3 Tbsp.	4 Tbsp.
nuts and/or seeds ⁵ or	1/2 ounce	3/4 ounce	1 ounce
yogurt ⁶	4 ounces	6 ounces	8 ounces

¹ Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.

² Fruit or vegetable juice must be full-strength.

³ Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.

⁴ A serving consists of the edible portion of cooked lean meat or poultry or fish.

⁵ Nuts and seeds may meet only one-half of the total meat/meat alternate serving and must be combined with another meat/meat alternate to fulfill the lunch or supper requirement.

⁶ Yogurt may be plain or flavored, unsweetened or sweetened.

Child Meal Pattern Snack

Select Two of the Four Components for a Reimbursable Snack

<u>Food Components</u>	<u>Ages 1-2</u>	<u>Ages 3-5</u>	<u>Ages 6-12¹</u>
1 milk			
fluid milk	1/2 cup	1/2 cup	1 cup
1 fruit/vegetable			
juice, ² fruit and/or vegetable	1/2 cup	1/2 cup	3/4 cup
1 grains/bread³	1/2 slice	1/2 slice	1 slice

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bread or cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate meat or poultry or fish ⁴ or	1/2 ounce	1/2 ounce	1 ounce
alternate protein product or	1/2 ounce	1/2 ounce	1 ounce
cheese or	1/2 ounce	1/2 ounce	1 ounce
egg ⁵ or	1/2 egg	1/2 egg	1/2 egg
cooked dry beans or peas or	1/8 cup	1/8 cup	1/4 cup
peanut or other nut or seed butters or	1 Tbsp.	1 Tbsp.	2 Tbsp.
nuts and/or seeds or	1/2 ounce	1/2 ounce	1 ounce
yogurt ⁶	2 ounces	2 ounces	4 ounces
¹ Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column. ² Fruit or vegetable juice must be full-strength. Juice cannot be served when milk is the only other snack component. ³ Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified. ⁴ A serving consists of the edible portion of cooked lean meat or poultry or fish. ⁵ One-half egg meets the required minimum amount (one ounce or less) of meat alternate. ⁶ Yogurt may be plain or flavored, unsweetened or sweetened.			

¹ Infant formula and dry infant cereal shall be iron fortified

² It is recommended that breast milk be served in place of formula from birth through 11 months.

³ For some breast fed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered with additional breast milk offered if the infant is still hungry.

⁴ A serving of this component shall be optional.

⁵ Fruit Juice shall be full strength.

⁶ Bread and bread alternates shall be made from whole grain or enriched meal or flour.

~~When planning meals and snacks, centers can be guided by the following meals patterns that are consistent with the United States Department of Agriculture's Dietary Guidelines for Americans and were developed for the Child and~~

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Adult Care Food Program.

A: MEAL PATTERNS FOR THE CHILD UP TO 12 MONTHS OF AGE

Age	Breakfast	Lunch or Supper	Supplement
Birth through 3 months	4-6 fl. oz. Formula ¹ or Breast milk ^{2,3}	4-6 fl. oz. Formula ¹ or Breast milk ^{2,3,6}	4-6 fl. oz. Formula ¹ or Breast milk ^{2,3}
4 through 7 months	4-6 fl. oz. Formula ¹ or Breast milk ^{2,3} 0-3 Tbsp. Infant Cereal ^{1,4}	4-6 fl. oz. Formula ¹ or Breast milk ^{2,3} 0-3 Tbsp/Infant Cereal ^{1,4} 0-3 Tbsp. Fruit and/or Vegetable	4-6 fl. oz. Formula ¹ or Breast milk ^{2,3}
8 through 11 months	6-8 fl. oz. Formula ¹ or Breast milk ^{2,3} 2-4 Tbsp. Infant Cereal ¹ 1-4 Tbsp. Fruit and/or Vegetable	6-8 fl. oz. Formula ¹ or Breast milk ^{2,3} 2-4 Tbsp. Infant Cereal ^{1,4,4} and/or 1-4 Tbsp. Meat, fish, poultry, egg yolk, cooked dry beans or peas or 1/2-2oz. Cheese; or 1-4 oz. Cottage Cheese, cheese food or cheese spread; and 1-4 Tbsp. Fruit and/or Vegetable	2-4 fl. oz. Formula, Breast milk ^{2,3} , or fruit juice ⁵ 1/2 Bread ^{1,6} or 0-2 Crackers ^{4,6}

¹ Infant formula and dry infant cereal shall be iron fortified

² It is recommended that breast milk be served in place of formula from birth through 11 months.

³ For some breast fed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered with additional breast milk offered if the infant is still hungry.

⁴ A serving of this component shall be optional.

⁵ Fruit Juice shall be full strength.

⁶ Bread and bread alternates shall be made from whole grain or enriched meal or flour.

B: MEAL PATTERNS FOR THE CHILD BETWEEN 1 YEAR AND 12 YEARS OF AGE

	Age 1 and 2	3 through 5 years	6 through 12 years
BREAKFAST			
Milk, fluid	½ cup	¾ cup	1 cup
Juice or fruit or vegetable	¼ cup	½ cup	½ cup
Bread and/or cereal, enriched or whole grain			
— Bread or	½ slice	½ slice	1 slice
— Cereal: Cold dry or	¼ cup ¹	1/3 cup ²	¾ cup ³
— Hot cooked	¼ cup	¼ cup	½ cup

MIDMORNING OR MIDAFTERNOON SNACK (SUPPLEMENT)

(Select 2 of these 4 components)

Milk, fluid	½ cup	½ cup	1 cup
Meat and meat alternate or	½ oz.	½ oz.	1 oz.
— yogurt, plain or sweetened	2 oz. or	2 oz. or	4 oz. or
— and flavored	¼ cup	¼ cup	½ cup
— eggs (large)	½ egg	½ egg	½ egg
Juice or fruit or vegetable	½ cup	½ cup	¾ cup
Bread and/or cereal, enriched or whole grain			
— Bread or	½ slice	½ slice	1 slice
— Cereal: Cold dry or	¼ cup ¹	1/3 cup ²	¾ cup ³
— Hot Cooked	¼ cup	¼ cup	½ cup

LUNCH OR SUPPER

Milk, fluid	½ cup	¾ cup	1 cup
Meat or meat alternate Meat, poultry, or fish;			
— cooked (lean meat with bone)	1 oz.	1 ½ oz.	2 oz.
— Cheese	1 oz.	1 ½ oz.	2 oz.
— Eggs (large)	½ egg	¾ egg	1 egg
— Cooked dry beans and peas	¼ cup	3/8 cup	½ cup
— Peanut Butter, soy nut, or	1 Tbsp.	3 Tbsp.	4 Tbsp.
— other nut seed butter			
— Peanuts, soy nuts, or tree	½ oz.	¾ oz.	1 oz.
— nuts or seeds	(50%)	(50%)	(50%)
— Yogurt	4 oz.	6 oz.	8 oz.
Vegetable and/or fruit (two or more)	¼ cup	½ cup	¾ cup
Bread or alternate,			
— enriched or whole grain	½ slice	½ slice	1 slice
	¼ cup	¼ cup	½ cup

¹ 1/4 cup (volume) or 1/3 ounce (weight), whichever is less² 1/3 cup (volume) or 1/3 ounce (weight), whichever is less³ 3/4 cup (volume) or 1 ounce (weight), whichever is less

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Source: the Child and Adult Care Food Program

APPENDIX 78-1 D -- DIAPER CHANGING AND TOILET TRAINING

§64-21-9. Diaper Changing and Toilet Training.

9.1. Children shall be diapered or have soiled underwear changed in an established diaper changing area. The changing area shall not be located in food preparation areas.

9.2. Staff shall change children diapers or soiled underwear on a clean, safe, impervious, nonabsorbent surface that is used for no other purpose.

9.3. Staff shall clean the child's perineal (urinary and anal) area with disposable wipes.

9.4. After removing a soiled diaper and before putting a fresh diaper on a child, staff members shall wipe their own hands with a pre-moistened towelette or a damp paper towel.

9.5. Both the child's and the staff member's hands shall be thoroughly washed after each diaper change. If disposable gloves are used, they must be discarded immediately and hands washed.

9.6. Changing tables and surfaces shall be cleaned and disinfected after each use by cleaning to remove visible soil, followed by wiping with an approved disinfectant solution, whether or not disposable, nonabsorbent paper is used. If disposable paper is used, it shall be discarded immediately after each diapering.

9.7. Soiled cloth diapers and/or soiled training pants shall be stored in a labeled container with a tight-fitting lid provided by a commercial diaper service or in a sealed plastic bag that is sent home with the child at the end of the day. If diapers are laundered by a commercial diaper service, the service shall be accredited by the Diaper Service Accreditation Council. Feces from soiled cloth diapers or training pants shall be disposed of by dumping in a toilet.

9.8. Soiled disposable diapers shall be stored in conveniently located, washable, plastic-lined, tightly covered waste containers. Each container shall be labeled and kept clean and free of buildup of soil or odor.

9.9. Toilet training chairs, if used, shall be of easily cleanable construction and after each use shall be emptied into a toilet, and thoroughly cleaned and sanitized in a utility sink.

9.10. Hand washing sinks shall not be used for rinsing soiled diapers or clothing or for cleaning toilet training equipment.

Source: Division of Health rule, "Child Care Centers," 64CSR21, §64-21-9. (1997)

— APPENDIX 78-1 E: OUTDOOR SURFACES

The following chart indicates the relationship between specific depths of surface materials and the critical height of play equipment that is the height below which a life-threatening head injury would not be expected to occur after a fall from the equipment. For example, six (6) inches of uncompressed wood chips is sufficient for equipment that has a critical height of seven (7) feet, but six (6) inches of medium pea gravel or fine or coarse sand is only sufficient for equipment that has a critical height of five (5) feet.

MATERIAL	UNCOMPRESSED DEPTH			COMPRESSED DEPTH
	6 inch depth	9 inch depth	12 inch depth	9 inch depth
Wood chips*	7-foot fall	10-foot fall	11-foot fall	10-foot fall
Double Shredded Bark Mulch	6-foot fall	10-foot fall	11-foot fall	7-foot fall
Engineered Wood Fibers **	6-foot fall	7-foot fall	>12-foot fall	6-foot fall
Fine Sand	5-foot fall	5-foot fall	9-foot fall	5-foot fall
Coarse Sand	5-foot fall	5-foot fall	6-foot fall	4-foot fall
Fine Pea Gravel	6-foot fall	7-foot fall	10-foot fall	6-foot fall
Medium Pea Gravel	5-foot fall	5-foot fall	6-foot fall	5-foot fall
Shredded Tires***	10-12-foot fall	N/A	N/A	N/A

* This product was referred to as Wood Mulch in previous versions of this handbook. The term Wood Chips more accurately describes the product.

** This product was referred to as Uniform Wood Chips in previous versions of this handbook. In the playground industry, the product is more commonly known as Engineered Wood Fibers.

*** This data is from test conducted by independent testing laboratories on a 6-inch depth of uncompressed shredded tire samples produced by four manufacturers. The test reported critical heights that varied from 10 feet to greater than 12 feet. It is recommended that persons seeking to install shredded tires as a protective surface request test data from the supplier showing the critical height of the material when it was tested in accordance with ASTM F1292.

Source: Adapted from the Consumer Product Safety Commission Handbook for Public Playground Safety (Publication No. 325)

APPENDIX 78-1 FE: STAFF/CHILD RATIO

Table A: Staff/Child Ratio for Single-Age Groups

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN TO BE CARED FOR BY ONE QUALIFIED STAFF MEMBER	MAXIMUM NUMBER OF CHILDREN IN A GROUP
6 weeks -- 1 year (6 weeks -- 12 months)	4	8
1 year -- 2 years (13 months -- 24 months)	4	12
2 years (25 - 35 months)	8	16
3 years (36 -- 47 months)	10	20
4 years (48 -- 59 months)	12	24
5 years -- school-age (60 months -- school-age)	12	24
School-age	16	32

Table B: Staff/Child Ratio While Children Are Participating in Water Activities -- Single-Age Groups

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN	NUMBER OF QUALIFIED STAFF MEMBERS
12 months and under	1	1
13 months -- 24 months	2	1
25 - 59 months	4	1
60 months and over	8	1