

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

FILED

2002 JUN 17 P 3:13

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: DHHR - Division of Human Services TITLE NUMBER: 78

RULE TYPE: Legislative CITE AUTHORITY: WV Code §49-2B-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Day Care Centers Licensing

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 18, 2002 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

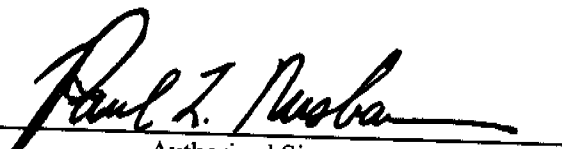
~~WV Dep't of Health & Human~~
Resources

P.O. Box 6165

Wheeling, WV 26003

Att'n: Mary Bennington

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

**Statement of Circumstances Which Require the Proposed Rule
Licensing Requirements for Day Care Centers
Title 78 CSR 1**

West Virginia State Code 49-2B-4 requires the promulgation, review and revision of the regulations governing a Day Care Center's License.

The commissioner shall promulgate rules in accordance with the provisions of chapter twenty-nine-a §§ 29A-1-1 et seq. of this code regarding the licensure, approval, certification and registration of child care facilities and the implementation of the provisions of this article.

The commissioner shall review the rules promulgated pursuant to the provisions of this article at least once every five years, making revisions when necessary or convenient.

The current rule was written and adopted in 1982.

FISCAL NOTE FOR PROPOSED RULES

Brief Summary of the Rule

Licensing Requirements for Day Care Centers Title 78 CSR 1

This proposed legislative rule repeals and replaces the existing Regulations for Day Care Centers in West Virginia. The rule contains the requirements which regulate Day Care Centers and assures the health, safety and well-being of children receiving professional child care in Day Care Centers by requiring full compliance with all rule components. Full compliance with the rule results in the issuance of a Day Care Center License.

No additional costs will be incurred.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

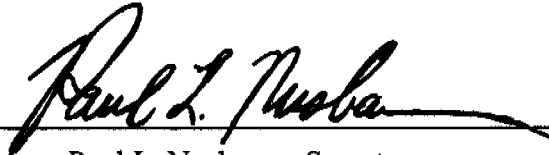
Licensed Day Care Centers, as now, will be required to continue their efforts to provide a higher standard of care for children receiving their service. The rule incorporates best practice standards developed during the nearly twenty years since the rule it replaces was promulgated. Two areas are included in the rule which will result in increased costs for many Centers. The first of these is the requirement for adequate and safe playgrounds. The second is additional training requirements for Center staff.

C. Economic Impact on Citizens/Public at Large.

Some Centers may consider raising the rate for non-certificate children whose care is not paid for by the Department.

DATE: June 17, 2002

Signature of Agency Head or Authorized Representative

A handwritten signature in black ink, reading "Paul L. Nusbaum", written over a horizontal line.

Paul L. Nusbaum, Secretary
Department of Health and Human Resources

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: June 17, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency name, Address & Phone No.) Department of Health and Human Resources

State Capitol Complex, Building 3, Room 201, Charleston, WV 25305

Telephone: (304) 558-5598

LEGISLATIVE RULE TITLE: Day Care Centers Licensing

1. Authorizing statute(s) citation: WV Code Section 49-2B-4

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

June 17, 2002

b. What other notice, including advertising, did you give of the hearing?

Notice of the proposed rule was sent to all currently Licensed WV Day Care Centers, Regional Head Starts, The Gov's Cabinet for Children and Families, WV Dep't of Health, WV Fire Marshal, WV Dep't of Education - Child Nutrition, WV Tobacco Prevention Program - WV Bureau for Public Health, and all Day Care Center Regulation Dev. Workgroup Members. Also, the rule will be posted online on the Office of Social Services web site at <http://www.wvdhhr.org/oss/>.

c. Date of Public Hearing(s) or Public Comment Period ended:

time and place a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

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

FILED

SERIES 1
DAY CARE CENTERS LICENSING

2002 JUN 17 P 3:13

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§78-1-1. General.

1.1. Scope. --This rule establishes standards and procedures for the licensure of day care centers under the provisions of W. Va. Code §49-2B-1 et seq., and related federal and state codes. This rule should be read in conjunction with the provisions of W. Va. Code §49-2B-1 et seq. The W. Va. 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. -- , 20__.

1.4. Effective Date. -- , 20__.

1.5. Repeal and Replacement of Former Rule. -- This legislative rule repeals and replaces "Day Care Centers Licensing," 78CSR1, effective June 1, 1982.

§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 day 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.

3.2. 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 and 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 acceptance of accountability for the child's or groups of children's care.

3.3. Approval. -- A written certificate issued by the Secretary stating that a center operated by the state meets the requirements for providing specified care for thirteen (13) or more children on a nonresidential basis in accordance with the terms and conditions of the certificate and this rule.

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

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

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

3.7. Child. – A person less than eighteen (18) years of age.

3.8. 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.

3.9. Child Maltreatment Record Search Release. – A document signed by a center's prospective staff member granting permission to conduct a search of Department records related to his or her involvement in child abuse or neglect allegations, or other investigations documented by the Secretary.

3.10. Continuous Supervision. – A staff member available to assist with child care responsibilities at all times.

3.11. Core Competencies of Early Childhood Educators. – The sets of skills and knowledge that represent common standards of satisfactory practice in the early childhood field in the following essential areas: safety, health, environment, physical and social development, cognitive development, development of creativity, communication, self, and guidance, family, program management, and professionalism.

3.12. 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.

3.13. Day Care Center. – A facility operated by an individual, firm, corporation, association or organization, public or private, for the care of thirteen (13) or more children on a nonresidential basis, except:

3.13.a. A kindergarten, preschool or school education program that is operated by a public school or accredited by the state department of education;

3.13.b. A child care program that operates with sessions not exceeding four (4) hours per day for a child;

3.13.c. An individual or facility that offers occasional care of children for brief periods;

3.13.d. Summer recreation camps for children held for periods not exceeding thirty (30) days;

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

3.13.f. Persons providing day care only for children related to them.

3.14. Department. – The West Virginia Department of Health and Human Resources.

3.15. 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.

3.16. Direct Supervision. – A qualified staff member physically present in the same room, area, or vehicle with the child or group of children, visually monitoring the interactions of the children.

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

3.18. 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.

3.19. Evening Care. – Care provided after seven o'clock (7:00) pm to the child who does not stay overnight.

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

3.21. Full-time Director. – A director who is present at the center for a minimum of one-half ($\frac{1}{2}$) of the hours the center is in operation during the week, or thirty-five (35) hours per week, whichever is less.

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

3.23. 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 day care center.

3.24. 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.

3.25. Level I Field Trip. – An excursion or special outing to a destination that is thirty (30) minutes or less from the center or, in the case of a summer recreation camp program, from the site where program activities regularly occur.

3.26. Level I Transportation. – The provision of travel for thirty (30) minutes or less from the center or, in the case of a summer recreation camp program, from the site where program activities regularly occur.

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

3.28. Level II Field Trip. – An excursion or special outing to a destination that is more than thirty (30) minutes from the center or, in the case of a summer recreation camp program, from the site where program activities regularly occur.

3.29. Level II Transportation. – The provision of travel for more than thirty (30) minutes from the center or, in the case of a summer recreation camp program, from the site where program activities regularly occur.

3.30. Level II Water Activity. – Any activity occurring in or near water with a depth of more than eighteen (18) inches, including but not limited to, swimming, fishing, rafting, boating, sail-boarding, scuba diving, inner-tubing, canoeing, sailing, water skiing, and water park activities.

3.31. License. – A written certificate issued by the Secretary authorizing a person, corporation, partnership, voluntary association, municipality, county or an agency, to provide specified care for thirteen (13) or more children on a nonresidential basis in accordance with the terms and conditions of the certificate and this

rule.

3.32. Licensed Capacity. – The maximum number of children in a center based on the lowest number of children permitted determined by the separately computed area of the center's indoor space, outdoor space and bathroom facilities.

3.33. Licensed Health Care Provider. – An individual who holds a license to practice in West Virginia as a doctor of medicine (MD), doctor of osteopathy (DO), physician's assistant (PA), or registered nurse practitioner (RNP).

3.34. Licensee. – The holder of a license or approval obtained from the Secretary to operate a day care center in West Virginia.

3.35. Medication Error. – Means:

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

3.35.b. The administration of a medication:

3.35.b.1. To the incorrect child;

3.35.b.2. In the incorrect dosage;

3.35.b.3. At the incorrect time, other than within one half ($\frac{1}{2}$) hour before or after the scheduled time;

3.35.b.4. In the incorrect form;

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

3.35.b.6. That is incorrect itself.

3.36. Night Time Care. – Care provided to the child who stays during nighttime hours but for less than twelve (12) consecutive hours

3.37. Parent. – The biological or adoptive parent or parents, a person or persons, or the Department, who has legal custody of a child by birth, or as a result of any contract, agreement, or legal proceedings.

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

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

3.40. 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.

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

3.42. **Qualified Staff.** – A staff member who meets the requirements under this rule for the position of director, assistant director, lead teacher, teacher, assistant teacher, or teaching assistant.

3.43. **Registered Apprenticeship Certificate for Child Development Specialist (RACDS).** – A nationally recognized credential awarded by the U.S. Department of Labor for the successful completion of a combination of classroom and on-the-job training

3.44. **Related Field.** – 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 as approved by the Secretary.

3.45. **Relevant Occupational 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; program coordination, development or regulation; training, instruction or technical assistance; or evaluation or research.

3.46. **Responsible Adult.** – A parent, center staff member, or other adult whom the parent has designated to drop off or pick up the child.

3.47. **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.

3.48. **Secretary.** – The Secretary of the Department of Health and Human Resources or his or her designee.

3.49. **School Age Child.** – A person who is between five (5) and 13 (thirteen) years of age and is eligible to attend school or is enrolled in school.

3.50. **School-Age Program.** – Services provided by a center for the care and supervision for school-age children.

3.51. **Serious Occurrence.** - Is when:

3.51.a. A child dies while in care;

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

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

3.51. d. A medication error occurs;

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

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 is 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, rock climbing and 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 fraction in which the numerator is one (1) qualified staff member or substitute, and the denominator is the maximum number of children that the qualified staff member 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 signed declaration by a person of his or her arrests or convictions.

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 program operated by a center that serves the same group or groups of school age children for more than thirty (30) consecutive days and less than ninety (90) consecutive days, and operates no less than four (4) hours a day and no more than twelve (12) hours a day.

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, 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 day care center with a capacity of thirty (30) or fewer children.

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

3.64. Type III Center. – A day 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 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 the manner set forth in this rule.

3.68. 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.

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

3.70. 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 Child Care Program.

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

4.1. Requirements for a License or Approval.

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

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

4.1.a.2. An individual, firm, corporation, association, organization or child welfare agency, other than one operated by the state, shall obtain a license from the Secretary.

4.1.a.3. An agency operated by the state, shall obtain a certificate of approval from the Secretary.

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

4.1.c. A license or 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 approval in a conspicuous place in the center.

4.1.e. When the ownership of a center is to change, the anticipated new owner shall apply for a license, and the new owner shall not operate until a provisional license is issued.

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 thirty (30) days prior to the relocation; and

4.1.f.2. Apply for a new license and shall not operate at the new location until a provisional license is issued.

4.2. Application for a License or Approval.

4.2.a. For each center to be licensed or approved, an applicant shall submit a completed application and provide the Secretary with the following information in writing:

4.2.a.1. A floor plan showing the proposed structure or the proposed changes to the existing structure;

4.2.a.2. A positive Fire Safety Inspection Report from the State Fire Marshal;

4.2.a.3. 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;

4.2.a.4. A Pest Management Report as required by the WV Department of Agriculture;

4.2.a.5. Documentation of legal authority from the Secretary of State or a business franchise certificate from the state Department of Tax and Revenue, authorizing that the applicant is organized to do business in the state and is in good standing;

4.2.a.6. A list of the names of the staff members and the governing body;

4.2.a.7. Job descriptions and the center's plan for meeting staff/child ratios;

4.2.a.8. The qualifications of the director and staff;

4.2.a.9. A plan for orientation training for new staff members;

4.2.a.10. A plan for the ongoing training, supervision, and evaluation of staff members;

4.2.a.11. An operating budget for the first twelve (12) months of operation and documentation of available funds equal to the operating budget projected for the initial six (6) month period;

4.2.a.12. Proof of liability insurance;

4.2.a.13. The center's statement of purpose as described in Section 6.2 of this rule;

4.2.a.14. The center's administrative manual as described in Section 6.3 of this rule;

4.2.a.15. A description of expectations for parent involvement; and

4.2.a.16. A menu review and approval as evidenced by a copy of the Day Care Center Menu Checklist or a written statement from Child and Adult Care Food Program administered by the Office of Child Nutrition in the Department of Education.

4.2.b. A licensee shall submit an application for renewal of a license or 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 W. Va. Code §49-2B-1 et seq., the requirements of this rule, terms of its licensure 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 center's written request for a waiver or variance from the Secretary 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.

4.4. Amendment of a License or Approval.

4.4.a. A current licensee shall apply for an amendment of a license or 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. Changing the licensed capacity of the center.

4.4.b. In addition to a completed application, a licensee shall submit to the Secretary in writing:

4.4.b.1. A copy of the center's revised statement of purpose as described in Section 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 staff/child ratios;

4.4.b.4. A floor plan reflecting changes to the structure being used by a day 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 menu review and approval as evidenced by a copy of the Day Care Center Menu Checklist or a written statement from Child and Adult Care Food Program administered by the Office of Child Nutrition in the Department of Education; and

4.4.b.8 A Pest Management Report as required by the WV Department of Agriculture.

4.5. Issuance of a Provisional License or Approval.

4.5.a. The Secretary may issue a provisional license or approval when:

4.5.a.1. An applicant is unable to demonstrate full compliance with this rule because the center is not fully operational; or

4.5.a.2. An established licensee is temporarily unable to demonstrate compliance with this rule.

4.5.b. A provisional license or approval expires six (6) months after the date of issuance and may be reinstated no more than two (2) consecutive times.

4.5.c. The issuance of a provisional license or provisional approval is contingent upon a center's submission of a plan of correction to the Secretary within a time frame specified by the Secretary.

4.6. Conditions of a License or Approval.

4.6.a. As a condition of issuing a license or an approval the Secretary may:

4.6.a.1. Limit the age, problems, type of behaviors, physical or mental conditions of children allowed admission to a particular center;

4.6.a.2. Prohibit intake of any children; or

4.6.a.3. Reduce the number of children that the center is licensed to receive.

4.7. Denial or Revocation of a License or Approval.

4.7.a. The Secretary may deny a license or approval when the applicant fails to achieve or maintain compliance with the provisions of W. Va. Code §49-2B-1 et seq. and the requirements of this rule.

4.7.b. When the Secretary denies an application or revokes a license or approval, the licensee shall not operate the center without a court order pending administrative or judicial review.

4.8. Order of Closure. When the Secretary finds that the operation of a center constitutes an immediate danger of serious harm to the children served by the center and issues an order of closure terminating operation, the licensee shall not operate the center without a court order pending administrative or judicial review, as in Section 24 of this rule.

4.9. Grievance Procedure.

4.9.a. 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:

4.9.a.1. A center shall ensure that families and employees can express concerns or make complaints without fear of retaliation;

4.9.a.2. The grievance procedure shall ensure due process; and

4.9.a.3. The center shall explain the procedure to parents and employees and obtain written acknowledgment that an explanation of the procedure has been provided.

§78-1-5. Inspection and Investigation.

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

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

5.3. After an inspection or a complaint investigation, the Secretary may require a plan of correction.

§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 W. Va. 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 member.

6.1.b.3. The governing body shall meet at least four (4) times a year and preserve in writing the minutes of each meeting, including but not limited to, the 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; conducting 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) who operates a center for profit may act as the governing body. In addition to the requirements listed in Paragraph 6.1.b.4., the owner shall appoint a parent advisory committee comprised of parents of children currently served by the center and meets at least four (4) times a year.

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 operation; 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. Staff;

6.3.a.4. Behavior management;

6.3.a.5. Reporting of abuse and neglect;

6.3.a.6. Health, including, at a minimum, immunization, any parental objection to treatment, exclusion and readmittance of the child with a communicable illness, and medication administration;

6.3.a.7. Attendance; and

6.3.a.8. Emergencies.

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. Records and Information Disclosure.

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

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

6.5.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;

6.5.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 W. Va. Code §61-3C-1 et seq.; and

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

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

6.5.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;

6.5.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 center is in operation, but may keep all staff records at a central location;

6.5.b. Information Disclosure.

6.5.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.

6.5.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.

§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 day 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 day 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;

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 reasonable 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 readmittance 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 readmittance of ill children, procedures for informing the parent of each child of the exclusion policy, and medication administration; and

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

7.1.b. The parent has access to a copy of this rule;

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

7.1.d. The center informs the parent of his or her right to report to the Secretary any complaints related to compliance with the provisions of W. Va. 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, sex and date of birth;

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

7.4.c. The names, addresses and telephone numbers 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, emergency medical care, and dental 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 from the parent to take photographs or make audio or video recordings of the child;

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

7.4.i. The legal verification when one (1) parent is the sole legal guardian of the child;

7.4.j. 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.k. Health records as described in Section 15.1 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. For emergency purposes, a center shall keep two (2) copies of the information in Section 7.4. of this rule, with a 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. 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. Shows the parent opportunities to volunteer at the center, including:

7.6.b.1. Assisting with program activities;

7.6.b.2. Sharing in educational activities or special events; or

7.6.b.3. Participating in program and policy development, including membership on the governing body or parent advisory board, attendance at planning meetings, or the completion of questionnaires about aspects of the center's operation and programs.

§78-1-8. Staffing.

8.1. All center staff are subject to the requirements of this rule including a parent who receives compensation for his or her duties, or who is used by the center to meet staff/child ratios, and a volunteer.

8.2. Center staff does not 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 develop, implement and maintain policies relating to staff employment, termination, utilization of uncompensated personnel, statement of criminal record, Child Maltreatment Record Search Release, compensation, and periodic performance evaluations.

8.3.b. A center shall provide new staff members with a notification letter that includes the position title, qualifications, duties and responsibilities at the time of hire.

8.3.c. A center shall conduct performance evaluations:

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

8.3.c.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.d. A center shall provide staff members a written copy of their evaluation, signed by the center

director and the evaluated staff member, and a continuing education plan based on the evaluation.

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

8.3.e.1. A current job description;

8.3.e.2. Written references, including three (3) references for the center director and two (2) references for other staff members; and

8.3.e.3. Records of employment, including a duplicate copy of all performance evaluations.

8.4. Staff Requirements.

8.4.a. A center shall utilize staff members 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. Correct hazards that might harm the health, safety and well-being of the children;

8.4.a.6. Work with children without using mistreatment or abuse;

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

8.4.a.8. Support children's physical, emotional, psychological, social and personal development; and

8.4.a.9. Communicate effectively and 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 functioning.

8.4.c. Other than the exceptions cited in Subsection 8.4.d., a center shall ensure that each staff member has a criminal background investigation check submitted 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 Record;

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.c.4. A completed, signed, and dated Child Maltreatment Record Search Release.

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

8.4.d.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.d.2. An individual contracted to provide lessons or other services to the children while center staff are present.

8.4.e. 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.f. The Secretary may require a FBI check for any reason.

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

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

8.4.h.2. The CIB report at least every five (5) years.

8.4.i. A center shall have policies and procedures that provide for the completion by a prospective staff member of a Statement of Criminal Record and the Statement of Child Maltreatment Record Search Release and the Statement of Child Maltreatment Record Search Release.

8.5. Hiring Prohibitions.

8.5.a. A center shall not employ or utilize 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, kidnaping, felonious physical assault or felonious 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. Felony or misdemeanor crime against a child or incapacitated adult;

8.5.a.6. Felony 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

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 employ or utilize an individual who has received a finding of maltreatment in any child protective service record.

8.5.c. The Secretary may grant a waiver for a center to employ or utilize an individual who has entered a plea of guilty or no contest, or been convicted of a felony, or two (2) or more misdemeanor crimes that are not listed in Subsection 8.5.a;

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

8.5.d.1. Staff to report his or her criminal arrest, charge, indictment, or conviction for a criminal offense to a center or the Secretary within twenty-four (24) hours;

8.5.d.2. A center to notify the Secretary of the staff member's report within twenty-four (24) hours; and

8.5.d.3. That a center prohibit a staff member who is accused of having sexually abused or otherwise injured a child from caring for or having contact with children pending the outcome of an investigation; and

8.5.e. A center shall have staff policies and procedures regarding waivers that include procedures to follow when an individual requests a waiver, including procedures for:

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

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

8.5.e.3. Identifying the circumstances when a center will accept a waiver; and

8.5.e.4. 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.

8.5.f. Prior to employing staff, a center shall have on file a recent health assessment signed by a licensed health care provider that includes:

8.5.f.1. A health history;

8.5.f.2. A physical examination;

8.5.f.3. A statement that the prospective staff member is physically and emotionally capable of caring for children; and

8.5.f.4. A tuberculosis screening by the Mantoux method, that is repeated annually.

8.5.g. 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 newly employed staff to meet training requirements, but may grant staff currently employed in positions at the time of the effective date of this rule up to two (2) years to comply with the education and training requirements of the position described in this rule, providing he or she remains in the same position at the same center and is in the process of acquiring the required training.

8.6.c. Except when a center operates only a summer recreation camp program, 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 and staff duties;

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, indoors and outdoors, and fire safety, including the use of fire extinguishers;

8.6.d.6. The statement of purpose and daily schedule, including the planned program of activities, routines and transitions; and

8.6.d.7. 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 staff members receive certified training in:

8.6.f.1. Cardiopulmonary Resuscitation (CPR) and First Aid. In addition, prior to working in a summer recreation camp program and within six (6) months of employment or utilization in all other programs, staff members shall have current CPR certification appropriate to the age of the children in care and current child first aid training. Except in the first year of employment or utilization, training in CPR is in addition to the requirement for annual professional development.

8.6.f.2. Medication Administration. 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.f.3. Abuse Recognition and Prevention. Prior to working in a summer recreation camp program and within six (6) months of employment or utilization in all other center programs, 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.f.4. Annual Professional Development. Except when employed or utilized for a summer recreation camp only, staff members shall have fifteen (15) hours of professional development training annually.

8.6.g. 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.g.1. In addition to the requirements for orientation training and annual professional development, completes management orientation training that includes a detailed review of the center's administrative manual and management practices; and

8.6.g.2. Together with the center's director signs a statement to be kept in the staff member's file that acknowledges receiving management training,.

8.6.h. A center that operates or plans to operate programs for children twenty-four (24) months of age and under:

8.6.h.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 it to the Secretary.

8.6.h.2. For an existing program a center shall ensure that within six (6) months of beginning to care for children twenty-four (24) 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 that at least one (1) qualified staff member is present at all times who has completed the minimum approved training.

8.6.h.3. In the first year of caring for children in this program, the approved training for the qualified staff member related to the care of children twenty-four (24) months of age and under shall meet the requirement for annual professional development described in this section.

8.6.h.4. For each year after the first year in this program, shall ensure that each qualified staff member's fifteen (15) hours of annual professional development include a minimum of six (6)

hours of approved training related to the care of children in this program.

8.6.i. When a center operates a summer recreation camp:

8.6.i.1. And only a summer recreation camp, a center shall ensure that, in addition to meeting the requirements for a director in this rule, the director shall have knowledge of camp administrative practices and at least one (1) season of leadership experience in a summer recreation camp or related activity.

8.6.i.2. In addition to other programs, a center shall ensure that the qualified staff member responsible for the program has knowledge of camp administrative practices and at least one (1) season of leadership experience in a summer recreation camp or related activity.

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

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; and

9.1.f. Have the following responsibility regarding children:

9.1.f.1. In a Type III center, the director shall not have regular responsibility for an assigned group of children.

9.1.f.2. In a Type I or Type II center, when the director has regular responsibility for an assigned group of children, the center shall keep a record on file of the hours and days of the director's work and the group assigned to the director.

9.1.g. Have the following qualifications:

9.1.g.1. Be at least twenty-one (21) years of age and have a minimum of one (1) year of relevant work experience;

9.1.g.2. In a Type I center, the minimum of:

9.1.g.2.A. A CDA credential, 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 an equivalent credential; or

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

9.1.g.3. In a Type II center, the minimum of:

9.1.g.3.A. A registered Apprenticeship Certificate for Child Development Specialist (ACDS);

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

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

9.1.g.4. In a Type III center, the minimum of:

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

9.1.g.4.B. A degree in a related field with 12 (twelve) credit hours in early childhood development and ninety (90) practicum contact hours; or

9.1.g.4.C. A degree in a related field and a total of two (2) years of relevant work experience.

9.1.h. Designate a person-in-charge to ensure that during all hours of operation when the director is not present at the center, his or her duties are carried out. The person-in-charge shall be a qualified staff member with a minimum of the qualifications of a teacher.

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 or lead teacher may have responsibility for the supervision, care and education of children and may be regularly assigned to a group of children.

9.2.c. The assistant or lead teacher shall:

9.2.c.1. Plan and adopt programming that conforms to core competencies of early childhood educators in Appendix 78-1 A of this rule 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, or twelve (12) college credits in an early child care and education field and three hundred (300) hours of relevant work experience working with young children, or an equivalent credential in a related field;

9.2.c.3.B. A total of ten (10) years of relevant work experience; or

9.2.c.3.C. A registered Apprenticeship Certificate for Child Development

Specialist (ACDS), or twenty-eight (28) college credits, with at least nine (9) credit hours in early childhood development.

9.3. A Teacher shall:

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 in Appendix 78-1 A of this rule, 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 equivalent;

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

9.3.d.3. A total of ten (10) years of relevant work experience.

9.4. Assistant Teacher. An assistant teacher shall:

9.4.a. Practice the core competencies of early childhood educators in Appendix 78-1 A of this rule;

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. A high school diploma or a GED; and

9.4.d.3. A West Virginia Training Certificate in Early Care and Education (WVTCECE) or 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 does 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; and

9.5.c. Have the following qualifications:

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

9.5.c.2. Have a high school diploma or GED; and

9.5.c.3. Be enrolled in the WVTCECE program or 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 utilizes 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; and

9.7.e. The 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 a substitute does not have sole responsibility for a group of children and works under the continuous supervision of, at a minimum, an assistant teacher.

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

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

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

9.10.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 while on duty;

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 experiences;

10.2. When the children are in distinct groups:

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;

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 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. For short periods of time such as when children are arriving and departing, for scheduled activities such as eating and napping, and for special occasions, including field trips, a center may combine school-age groups of children and children five (5) years of age and under.

10.3. Staff/Child Ratios. The minimum staffing ratios are the following:

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, a center shall have a

written 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.

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

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

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

10.4.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 G of this rule.

10.4.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 G of this rule for the youngest child in the group.

10.4.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 G of this rule. In addition a center shall ensure that:

10.4.b.3.A. One (1) qualified staff member supervises a maximum of eight (8) children;

10.4.b.3.B. 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

10.4.b.3.C. 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.

10.4.c. Exceptions to the staff/child ratio are:

10.4.c.1. During nap time.

10.4.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 G of this rule, is present in the nap area and able to see and hear all of the children at all times.

10.4.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 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.

10.4.c.2. During activities away from a center including:

10.4.c.2.A. Water activities.

10.4.c.2.A.1. 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 G of this rule; and

10.4.c.2.A.2. 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.

10.4.c.2.B. Field Trips.

10.4.c.2.B.1. A center shall ensure that when a child is participating in a Level I or Level II field trip, at least two (2) qualified staff members are present at all times.

10.4.c.2.C. At all times when transporting a child, a center shall ensure that no child is unattended in a vehicle according to the following:

10.4.c.2.C.1. When transporting a child twenty-four (24) months of age and under during a Level I field trip or Level I transportation, a center shall maintain the staff/child ratio described in Table A of Appendix 78-1 G of this rule and not include the driver in the staff/child ratio.

10.4.c.2.C.2. When transporting a child over twenty-four (24) months of age during a Level I field trip or Level I transportation, a center shall maintain the staff/child ratio described in Table A of Appendix 78-1 G of this rule and may include the driver in the staff/child ratio.

10.4.c.2.C.3. When transporting a child over twenty-four (24) months of age during a Level II field trip or Level II transportation, a center shall maintain the staff/child ratio described in Table A of Appendix 78-1 G of this rule and not include the driver in the staff/child ratio.

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

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

11.1.a. Develop, implement and maintain policies and procedures for behavior management and 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.e. 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 parent

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 school age 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 and not for over one (1) minute for each year of a child's age up to a maximum of five (5) minutes for the child under school-age;

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. 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 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. Punishing or threatening a child in association with food, rest or toilet training;

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

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

11.4.i. Punishing an entire group for the actions of a few children; or

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

11.5. 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 shall participate 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 shall also participate in the development and implementation of the plan and, when necessary, receive written reports of the child's progress;

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 W. Va. 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 center shall post a statement in clear public view that it reports suspected child abuse and neglect to Child Protective Services.

11.7. For informing the staff, a center shall:

11.7.a. Give to each staff member a copy of its policies on behavior management and the reporting of child abuse and neglect, and when a center changes its policies, give them the revised policies.

11.7.b. Receive a signed and dated acknowledgment that the staff member has read and understands the policies or changed policies; and

11.7.c. Keep the signed acknowledgment statement in the staff member's file.

11.8. For informing parents, at the time of admission of a child as required in Section 7 of this rule, a center shall:

11.8.a. Give to each child's parent written copies and an oral explanation of its policies on behavior management and the reporting of child abuse and neglect, and when the center changes its policies, update them on the changes;

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

11.8.c. Keep 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.

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 or 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 couch;

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.c. A center shall not provide activity space in a basement area unless the basement area is approved by the State Fire Marshal.

12.2.d. When a center operates a summer recreation camp program that provides outdoor activities for six (6) or more hours each day, 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.

12.3. Outdoor Space.

12.3.a. A center shall provide an outdoor play area that includes a minimum of seventy-five (75) square feet of space per child, or if the outdoor play area has less than that a center shall:

12.3.a.1. Establish an outdoor play 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 play 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 play 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 play space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

12.3.c. When a center operates a summer recreation camp program, the center shall submit a plan for the Secretary's approval for outdoor play 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.

12.4.a. 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.

12.4.b. When a center operates a summer recreation camp program that provides outdoor activities for six (6) or more hours each day, if the center receives written approval from the local health department, the center 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.

§78-1-13. Furnishings, Equipment and Materials.

13.1. 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;

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. A center's furnishings shall include:

13.2.a. Children's chairs and tables that are not stationary and multipurpose;

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. 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. 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.b. Furniture that is child-sized or adapted for children; and

13.3.c. Feeding equipment that is appropriate and sufficient for the children's sizes, ages, and numbers served. When feeding equipment is a high chair, the chair shall have a wide base and a T-shaped safety strap. Jumpers and infant walkers are prohibited.

13.4. A center's sleeping equipment:

13.4.a. For children who participate in a nap-time program shall include:

13.4.a.1. One (1) crib or playpen with a 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, playpen with 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 required to be cleaned and disinfected at least once a week before another child uses it, or immediately after it is soiled.

13.4.e. Shall include the following specifications for cribs and playpens:

13.4.e.1. That the distance between the slats, side and end panels of the crib or playpen is not more than two (2) and three-eighths (3/8) inches;

13.4.e.2. That the mattress fits the crib snugly with no more than one (1) inch between it and the crib;

13.4.e.3. That the crib is sturdy and non-collapsible;

13.4.e.4. That the height from the top of the mattress at its lowest point to the top of the crib rail is at least twenty-six (26) inches;

13.4.e.5. That the crib drop-side latch holds the side securely in the raised position, is out of the reach of the child in the crib, and is up when the crib is in use;

13.4.e.6. That there are 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; and

13.4.e.7. That the crib mattress is at least four (4) inches thick, the playpen pad is at least one (1) inch thick, and each mattress or pad has a form-fitting cover that is durable and able to be easily disinfected.

13.4.f. Shall include the following specifications for mats:

13.4.f.1. That they are at least two (2) inches thick; and

13.4.f.2. That they have form-fitting covers that are durable, waterproof and able to be easily disinfected.

13.4.g. Shall include the following specifications for cots:

13.4.g.1. That the bottom of the cot's sleeping surface is not less than three (3) inches and not more than eighteen (18) inches off the floor;

13.4.g.2. That the cot is firm enough to support the child;

13.4.g.3. That the cot is of sufficient size to comfortably accommodate the size and weight of the child; and

13.4.g.4. That the cot is constructed of a material that can be easily disinfected.

13.4.h. Shall not permit the following sleeping accommodations for children:

13.4.h.1. That they sleep on the floor;

13.4.h.2. That they sleep on the floor in a sleeping bag or on bed linens alone;

13.4.h.3. That they sleep in a stacked crib or consecutively attached crib;

13.4.h.4. That they share a bed or cot, even with a family member; or

13.4.h.5. That they use a crib if they are over thirty-five (35) inches tall.

13.4.i. Shall include the following specifications for bedding:

13.4.i.1. That mattresses, playpen pads or cots are waterproof or have a waterproof cover;

13.4.i.2. That bedding, including sheets and blankets, is clean and in good condition;

13.4.i.3. That bedding is not used by more than one child at a time;

13.4.i.4. That bedding is used to cover all sleeping surfaces before being used;

13.4.i.5. That seasonally appropriate covers are used, sufficient to maintain adequate warmth;

13.4.i.6. That pillows or soft, fluffy bedding is not used for the child twelve (12) months of age and under;

13.4.i.7. That a kind made of substances of animal origin other than wool, including feathers and animal hair, that commonly cause allergic reactions, is prohibited; and

13.4.i.8. That a center 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. Shall include the following requirements when providing evening or nighttime care:

13.4.j.1. That each cot or bed has a pillow, pillow case and two (2) sheets; and

13.4.j.2. That when the sleeping surface is a mattress, the bottom sheet is secure.

13.5. 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 in Appendix 78-1 B 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.

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 them 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, and securely fixed in place;

13.5.h.3. 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. Plastic bags and styrofoam objects are not accessible to the child less than four (4) years of age, and that balloons are completely prohibited.

13.6. 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 B 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;

13.6.e. Maximize safety by ensuring that:

13.6.e.1. All outdoor equipment is installed, maintained and used in accordance with

the manufacturer's instructions;

13.6.e.2. The position of the outdoor equipment prevents hazards from conflicting activities;

13.6.e.3. The use zones are free of obstacles, except for the support structures for the swings;

13.6.e.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.e.5. Each swing frame for the child 24 (twenty-four) months of age and under has a maximum of two (2) seats;

13.6.e.6. Metal equipment is in the shade, if at all possible;

13.6.e.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.e.8. The outdoor area is free of wading pools and other equipment that might hold water and pose a drowning hazard to the child.

13.7. A center shall provide storage for equipment, materials and supplies that includes:

13.7.a. A low, open shelf for activity items so that children may select, remove and replace items independently;

13.7.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;

13.7.c. When a closet is used that is accessible to children, it shall have a latch with an internal release so that the door can be opened by a child inside the closet; and

13.7.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:

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 need, 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 shall initially place the child six (6) 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.

14.3.c. Outdoor Activity. When a child is in care for more than four (4) daytime hours, weather and circumstances permitting, a center shall provide a minimum of one (1) hour of outdoor activity daily, on days when the temperature is forty (40) degrees Fahrenheit or more, and may provide outdoor activity on other days, as appropriate.

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 an individualized 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;

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; and

14.4.c.3. For each child twelve (12) months of age and under, prepare a written report that is available to the parent at the end of each day and is prepared until the child reaches fourteen (14) months of age.

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 child 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 sounds, 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. For school-age children a center shall follow these additional daily program requirements:

14.6.a. A center shall post a daily schedule of activities that reflects the time of day and the number of hours that it provides care before school, after school, and on days when school is closed.

14.6.b. A center shall ensure that the program described in the daily schedule meets the requirements of Section 14.1, includes activities that reflect a school age child's interests and skills, and provides opportunities for the child to:

14.6.b.1. Be involved in activity planning, including his or her own;

14.6.b.2. Complete homework and work on projects or hobbies;

14.6.b.3. Be involved with children of the same age; and

14.6.b.4. Join in group play and community activities.

14.6.c. 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:

14.6.c.1. Actively seek meaningful conversations with a child and talk about events of importance and mutual interest;

14.6.c.2. Be available and responsive to a child, listen with attention and respect, and encourage the child to share experiences, ideas and feelings;

14.6.c.3. Help a child develop problem-solving skills by describing problems and encouraging him or her to evaluate the situation;

14.6.c.4. Facilitate rather than instruct by offering suggestions, providing positive reinforcement, and encouraging efforts, and recognizing accomplishments; and

14.6.c.5. Have developmentally appropriate expectations of a child's social behavior.

14.7. Summer Recreation Camp. For a summer recreation camp program a center shall follow these guidelines:

14.7.a. Other than the requirements in Section 14.1 of this rule, a center shall ensure that the daily schedule provides for outdoor or off-site activities a majority of the time;

14.7.b. Other than the requirements of Subsection 14.7.c. of this rule, a center may from time to time schedule an occasional overnight activity;

14.7.c. When a center that operates a summer recreation camp program schedules an overnight activity, the center shall provide a mat, cot or bed for each child; and

14.7.d. When a center provides evening or night time care, the center shall:

14.7.d.1. Plan a program that respects the normal sleeping periods, and evening and morning routines of the child.

14.7.d.2. Establish and post a schedule for the child in consultation with the child's parent that provides for:

14.7.d.2.A. Quiet activities before bedtime and opportunities for the older child to complete homework or work on projects or hobbies;

14.7.d.2.B. Meals and snacks;

14.7.d.2.C. Routine preparations for bed; and

14.7.d.2.D. Dressing in the morning, when applicable.

14.7.d.3. Ensure that no child remains in care for more than eighteen (18) hours in a twenty-four (24) hour period;

14.7.d.4. Ask the parent to provide the child 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

14.7.d.5. Ensure that staff members oversee a child's bath or individual shower, supervise respecting the child's privacy and according to the child's developmental needs.

14.8. Active Media. When a center plans an activity that involves active media, the center shall ensure that:

14.8.a. The active media supplement but do not replace traditional early childhood materials;

14.8.b. A child has a choice of other activities and materials;

14.8.c. Staff members are available to support the activity by discussing the use of the active media with the child;

14.8.d. The computer software chosen is developmentally appropriate and supports creative play and learning; and

14.8.e. No video games or computer software with sexual or violent content, profanity or aggressive behavior are used.

14.9. Passive Media. Regarding passive media, a center shall ensure that:

14.9.a. Passive media are not routinely part of the daily schedule;

14.9.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;

14.9.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; and

14.9.d. No television programs, cartoons or movies with sexual or violent content, profanity or aggressive behavior are viewed.

14.10. Special Activity. When a center plans a special activity, prior to the special activity the center shall:

14.10.a. Have on file an activity plan that includes, but is not limited to:

14.10.a.1. The qualifications of the supervisor of the special activity;

14.10.a.2. The special qualifications, if any, of any other staff member necessary for adequate supervision of the activity;

14.10.a.3. A supervision plan that includes the number of staff members needed to adequately supervise the activity;

14.10.a.4. The conditions under which a child may participate in the activity, such as the child's age or skills;

14.10.a.5. Any special equipment necessary, such as life jackets, helmets, or other safety gear; and

14.10.a.6. Special safety practices and emergency procedures.

14.10.b. Provide the parent with a copy of the activity plan and have written permission dated and signed by the parent for the child's participation in the activity; and

14.10.c. Assign appropriate staff to the activity by:

14.10.c.1. Choosing a staff member for the special activity who has appropriate experience, training or certification in the activity;

14.10.c.2. Having on file at the center verification of the responsible staff member's experience, training or certification; and

14.10.c.3. Ensuring that the responsible staff member is present at the site of the activity.

14.11. Water Activities. When a center plans water activities, the center shall:

14.11.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;

14.11.b. Ensure constant supervision of a child participating in any aspect of any activity involving water;

14.11.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;

14.11.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; and

14.11.e. Ensure that when a child is participating in a Level II water activity, the activity is also guarded by an individual who:

14.11.e.1. Is an appropriately certified lifeguard;

14.11.e.2. Has skill in rescue and emergency procedures specific to the aquatic area and activities guarded; and

14.11.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.

14.11.f. Ensure proper equipment and safety further by:

14.11.f.1. Prior to allowing a child to participate in a Level II water activity, evaluating the child and classifying the child as either a swimmer or a non swimmer;

14.11.f.2. Assigning equipment, facilities and activities equivalent to the child's individual abilities and based on a child's classification; and

14.11.f.3. Ensuring that rescue equipment is in full working condition, available and accessible to a child at each water activity site.

14.12. Field Trip. When a center plans a field trip, the center shall:

14.12.a. Have on file a written field trip plan that includes:

14.12.a.1. The names of the children, staff members and any other participants on the field trip;

- 14.12.a.2. The departure and return times;
- 14.12.a.3. The means of travel and routes to be taken;
- 14.12.a.4. An alternate plan in case of bad weather;
- 14.12.a.5. The name of a contact person at the center;
- 14.12.a.6. The name, address and telephone number, if applicable, of each destination;
- 14.12.a.7. Relevant safety rules to be followed; and
- 14.12.a.8. Special emergency procedures.

14.12.b. Secure written permission from the child's parent prior to the field trip;

14.12.c. 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. Exemptions from immunization requirements shall be available for parents who provide written documentation of religious objections to immunization or 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. Prior to admitting a child, except to a summer recreation camp program, 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 other than normal results of a screening, such as a screening for visual or hearing impairments, tuberculosis or lead poisoning;

15.2.a.3. Prescribed daily medications, including 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.b. A center shall ensure that a child's health assessment is updated with new or current information according to the schedule established by the American Academy of Pediatrics, or at least every six (6) months for the child twenty-four (24) months of age and under, and at least every two (2) years for the child twenty-five (25) months and over.

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 on file;

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.e. 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.f. A center shall exclude a sick child from the center:

15.4.f.1. Immediately when a child has a serious communicable illness;

15.4.f.2. When the illness prevents a child from participating in routine activities;

15.4.f.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; and

15.4.f.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.f.4.A. Fever with stiff neck, lethargy, irritability, or persistent crying;

15.4.f.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.f.4.C. Vomiting three (3) or more times, or with signs of dehydration;

15.4.f.4.D. Undiagnosed rash that is accompanied by a behavior change, difficulty in breathing or joint pain, 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.f.4.E. Mouth sores with drooling;

15.4.f.4.F. Infestation, such as scabies or head lice;

15.4.f.4.G. Abdominal pain that is persistent, or intermittent with other signs such as a fever;

15.4.f.4.H. Difficulty in breathing; or

15.4.f.4.I. Lethargy such that the child does not play.

15.4.f.5. When a child has any of the following diagnosed conditions:

15.4.f.5.A. Diarrhea and blood or mucus in the stool;

15.4.f.5.B. Contagious signs of pertussis, measles, mumps, chicken pox, rubella or diphtheria;

15.4.f.5.C. Streptococcal infection until treated with antibiotics for twenty-four (24) hours;

15.4.f.5.D. Pinkeye with yellow or white discharge;

15.4.f.5.E. Untreated tuberculosis; or

15.4.f.5.F. Other conditions as determined by a licensed health care provider.

15.4.g. Regarding preventing transmission of illness and readmission of a child:

15.4.g.1. During the course of an identified outbreak of any communicable illness at a center, 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.g.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 the risk of disease transmission has passed;

15.4.g.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.g.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.h. Guidelines for handling reportable diseases introduced in a center include that:

15.4.h.1. A center shall report to the local health department the introduction of a diagnosed reportable disease as listed in Appendix 78-1 C 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.h.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.h.3. A center shall complete a serious occurrence report as required under this rule.

15.4.i. Medication Administration. With advice from a licensed health provider, a center shall develop, implement and maintain health policies and procedures that include the following procedures when administering medication:

15.4.i.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 physician or other licensed health care provider.

15.4.i.2. A center may refuse to administer non prescriptive medications.

15.4.i.3. A center shall store all medication in its original bottle or package in a locked cabinet or container that is inaccessible to children, away from food, and refrigerated or unrefrigerated according to instructions on the prescription, order or label. When a center stores medication and food in the same refrigerator, the center shall place the medication in a sealed plastic container.

15.4.i.4. A center shall ensure that medication is only administered by designated

qualified staff members with training in medication administration.

15.4.i.5. A center shall ensure that medication is only administered when:

15.4.i.5.A. 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 physician's name, the child's first and last names, specific, legible directions for administration and storage, and the expiration date; or

15.4.i.5.B. The original non prescriptive medicine bottle or package also has a label with the child's first and last names, specific, legible directions for administration and storage, and the name of the licensed health care provider who wrote the order and the date of the order.

15.4.i.6. A center shall ensure that before administering medication when the directions are not legible, staff members check with the child's licensed health care provider or, if applicable, the pharmacy that filled the prescription.

15.4.i.7. 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.i.8. A center shall ensure that records of medication administration are kept:

15.4.i.8.A. In a medication log that is cumulative; and

15.4.i.8.B. Completed in ink by the staff member who administers the medication, and includes the child's name, the date and time of the administration, the name and dosage of the medication, the child's response, if any, and the name of the staff member who administered it.

15.4.i.9. A center shall ensure if and when a medication error is made, the staff member who makes the error shall:

15.4.i.9.A. Inform the center director and the parent of the child affected by the error;

15.4.i.9.B. Contact the licensed health care provider of the child affected by the error;

15.4.i.9.C. Complete a serious occurrence report as required under this rule;

15.4.i.9.D. Observe the child for any reaction to the error and, if a licensed health care provider has been contacted, follow the provider's instructions; and

15.4.i.9.E. When he or she makes an error in recording the administration of medication, draws a line through the incorrect entry, initials the error and writes the correct information.

15.4.i.10. A center may permit a child to carry and self-administer his or her own medication under the following circumstances:

15.4.i.10.A. With written permission from the child's parent and physician 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.i.10.B. With written permission from the child's parent and physician, 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.i.10.C. When the child self-administers medication, qualified staff members will keep a written record of the administration in the medication log.

15.4.j. Prior to the application of sun screen for outdoor play, the center shall:

15.4.j.1. Have written permission from the parent on file;

15.4.j.2. Ensure that the sun screen is labeled with the child's first and last names;

15.4.j.3. Give the parent written information about the sun screen;

15.4.j.4. Ensure that a staff member applies sun screen to a child up to four (4) years of age; and

15.4.j.5. Permit a child more than four (4) years of age to apply his or her own sun screen under the direct supervision of a staff member.

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 shall provide children with meals and snacks that are consistent with the United States Department of Agriculture's current Dietary Guidelines for Americans in Appendix 78-1 D of this rule.

16.2. Special Dietary Needs. When planning meals and snacks a center shall:

16.2.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 other reason, such as vegetarianism or a religious prohibition; and

16.2.b. Keep information about the child's special dietary needs in a location that is accessible to staff who prepare and serve food, and protects a child's right to confidentiality.

16.3. Food Groups. A center shall include foods from the four (4) basic food groups: milk, protein, fruits and vegetables, and grains, as listed in Appendix 78-1 D of this rule, for the child thirteen (13) months and over as follows:

16.3.a. Breakfast shall include at least one (1) item from three (3) of the food groups;

16.3.b. Lunch or supper shall include at least one (1) item from each of the four (4) food groups; and

16.3.c. Snacks shall include at least one (1) item from two (2) of the food groups.

16.4. Frequency of Meals. A center shall ensure that no more than four (4) hours elapse between meals and snacks, unless a child is asleep. A center shall provide meals and snacks according to the following requirements:

16.4.a. A center that is open from morning through afternoon shall serve a morning snack or breakfast, lunch and afternoon snacks;

16.4.b. A center with a school-age program shall serve a snack to the school-age child arriving after school;

16.4.c. A center that provides care before seven (7) o'clock in the morning shall serve breakfast;

16.4.d. A center that provides care to the child whose planned attendance extends until after seven (7) o'clock in the evening shall serve supper; and

16.4.e. A center shall provide at least one (1) hot meal a day to each enrolled child who is present at meal time, except due to a special event or unusual circumstance.

16.5. Quantity for Daily Requirements. A center shall follow meal patterns listed in Appendix 78-1 D of this rule and serve a child:

16.5.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 D of this rule;

16.5.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 Americans as listed in Appendix 78-1 D of this rule; and

16.5.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.

16.6. Requirements for Milk and Juice.

16.6.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.

16.6.b. A center shall serve the child only commercially pasturized, one hundred (100) percent fruit juice to drink.

16.7. Food Service. A center shall serve food according to the following:

16.7.a. A center shall provide a child with age-appropriate and developmentally suitable eating utensils;

16.7.b. Staff members shall encourage a child to eat the food served, but shall not coerce or force feed a child;

16.7.c. Staff members shall eat meals and snacks with a child twenty-five (25) months of age and over and shall eat the same food as the child unless excused from eating specific foods for medical or religious reasons; and

16.7.d. The meals shall be served in a setting that encourages socialization, where the children and staff members are seated when eating, and that staff members provide supervision and model positive eating behaviors and social interactions.

16.8. Menus.

16.8.a. A center shall post menus for all food served a minimum of one (1) week in advance for the parent to see;

16.8.b. A center shall follow written menus as planned and write any changes on the posted menus; and

16.8.c. A center shall date menus and keep them on file for a minimum of two (2) months.

16.9. Food Safety. A center shall ensure that:

16.9.a. Food preparation, service areas, storage areas, and equipment and utensils are clean and in good repair;

16.9.c. An off-site supplier of meals or snacks has a Food Service Permit,

16.9.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;

16.9.d. With the exception of bottles of formula or expressed breast milk brought to a center by a parent for consumption by his or her own child, a center serves only food and beverages provided by a center or brought into a center from an approved source as defined by the health department;

16.9.e. Leftover portions of food that have been served are discarded;

16.9.f. Prior to serving milk to a child, except when its original container is a single service container, staff shall pour 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;

16.9.g. Ice is made with water from an approved source; and

16.9.h. Ice used for cooling is not consumed by the child, and water from melted ice used for cooling does not contaminate food to be served.

16.10. Additional Nutrition and Feeding Requirements for a Child Twelve (12) Months and Under. A center caring for a child twelve (12) months 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.

16.10.a. 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.

16.10.b. For the child between six (6) months and three (3) years of age a center shall not replace formula or breast milk with water.

16.10.c. 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 age-appropriate feeding equipment provides a definite place for the child to sit while eating, and shall not prop bottles or allow the child to carry a bottle while moving about or walking.

16.10.d. For food safety a center shall:

16.10.d.1. Store perishable food, formula and expressed breast milk in the refrigerator;

16.10.d.2. Clearly label each bottle of formula or breast milk with the child's name, contents and the date received;

16.10.d.3. Cap bottles of formula or breast milk when they are not being used;

16.10.d.4. Not use a microwave oven to warm a bottle of formula or breast milk;

16.10.d.5. 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 to filling them;

16.10.d.6. Handle baby food in this way:

16.10.d.6.A. A center shall not accept previously opened baby food containers;

16.10.d.6.B. A center shall remove commercially packaged baby food from its container and serve it in a clean bowl or cup;

16.10.d.6.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

16.10.d.6.D. A center shall discard leftover food that has come into contact with the feeding spoon.

16.10.d.7. Handle breast milk and formula in this way:

16.10.d.7.A. Shall store breast milk in hard plastic or glass bottles with tight lids only;

16.10.d.7.B. Shall remove breast milk and bottles of formula from the refrigerator immediately before using only;

16.10.d.7.C. 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; and

16.10.d.7.D. Shall use refrigerated breast milk 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 freezer.

16.10.e. For safe drinking water practice, a center shall ensure that:

16.10.e.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

16.10.e.2. A single service drinking cup is discarded after one use, and that a non-disposable cup or glass is washed and sanitized after each use.

§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 when:

17.1.a.2.A. Their 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, hanging 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.a.2.I. After removing gloves used for any purpose.

17.1.b. Universal Precautions. Except breast milk, when staff members are or may be exposed to blood and body fluids that might contain blood, staff members shall adopt universal precautions.

17.1.c. Diapering and Toileting. A center shall carry out diapering and toilet training according to Appendix 78-1-E.

17.1.c.1. Toilet Training.

17.1.c.1.A. A center shall discuss toilet-training methods with the parent of the child being toilet trained.

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 ensure that a child has toilet fixtures sized so that he or she can use them without assistance, and when specially sized toilet fixtures are not available, shall provide step stools or modified toilet seats that are safely constructed and that they can easily disinfect.

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 ceilings are of easily cleanable material and 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.

§78-1-18. Animals.

18.1. When an animal is on its premises, a center shall ensure that the animal shows no signs of being ill or carrying disease, and when the animal is a dog or cat, the center shall have on file documentation of current vaccinations.

18.3. A center shall not have on the premises ferrets, birds, including birds of the parrot family, 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 at all times 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 arrange for a designated adult to sign each child in as the child arrives at the center or boards a vehicle provided by the center, and to sign each child out as the child departs the center or leaves a vehicle provided by the center.

19.2.b. A center shall require the following sign-in and sign-out information: the date and exact hour that a child arrives and departs the center or vehicle, the name and signature of the adult who drops off or picks up the child, and if the adult who signs the child in or out is different from the adult who drops off or picks up the child, the names of all of the adults.

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 or the designated staff member riding on the vehicle that shall include the first and last names of the child who has boarded the vehicle;

19.3.b. Immediately on unloading the last child from the vehicle at the center or during field trips, or before parking the vehicle at the center or other location, the driver or the designated staff member riding on the vehicle shall physically search the vehicle and check that the children being transported have been unloaded; and

19.3.c. The driver or the designated staff member shall deliver the transportation passenger log to the person designated by a center as responsible for maintaining attendance records and follow a center's attendance procedures for ensuring that the attendance records are updated by the end of the day when the vehicle is parked at another location.

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 designated space used by the group on the center premises or the location when the group is participating in off-site activities.

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 on the return 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 Information. 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 Plans. A center shall develop, implement and maintain policies and procedures for responding to an emergency, including a plan:

19.6.a. For a medical emergency and non medical emergency, including situations that could pose a hazard to the staff and children including, a fire, storm, flood, chemical spill, power failure, bomb threat or kidnaping;

19.6.b. For evacuation from a center in the event an emergency that could cause damage to the center or pose a hazard to the staff and children and evacuation from a vehicle used to transport children. Policies and procedures shall consider 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.c. For documenting the review of its emergency plans with new staff during orientation and with all staff at least once a year;

19.6.d. For a medical emergency that identifies staff responsible for implementing the plan and includes:

19.6.d.1. The procedures to be followed;

19.6.d.2. The location of a center's first aid kit and other emergency supplies;

19.6.d.3. The location of the child's emergency information;

19.6.d.4. The name, address and telephone number of a health professional or facility available to provide medical consultation to the center;

19.6.d.5. The name, address, telephone number and location of the emergency facility

to be used when a center cannot reach the child's parent, 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.d.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.d.7. Other emergency telephone numbers as required in this rule.

19.6.e. For a non medical emergency that identifies staff members responsible for implementing the plan and includes:

19.6.e.1. The procedures to be followed;

19.6.e.2. The location of the center's first aid kit and other emergency supplies;

19.6.e.3. The location of the child's attendance records and emergency information;

19.6.e.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.e.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 a center shall post by the telephone and in each room of the center;

19.6.e.6. A procedure for notifying the local fire department when a center offers evening or nighttime care;

19.6.e.7. A procedure for practicing moving to the safe location within a center at least two (2) times a year, or when the center operates a summer recreation camp program, at least every two (2) weeks and, within the first two (2) days of each enrollment cycle;

19.6.e.8. A procedure for maintaining a written record of the dates and times when the practice sessions are conducted; and

19.6.e.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 and includes:

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 location with a telephone, such as another center, school or public building, 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; and

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 center shall have a plan for evacuating from a vehicle that is posted in each vehicle regularly used by the center to transport a child and 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;

19.9.b.5. Obtain substitute staff, if needed, to provide adequate supervision for the children who remain at the center; and

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 a 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 in clear view where it is accessible to staff members, but out of reach of the children. 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, coins for a pay telephone, and pencil and paper; and

19.10.b. Readily available at all times, including in the outdoor play 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-line 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.

19.11.a. Close to the location of each telephone, a center shall post:

19.11.a.1. The name, address and telephone number of the center;

19.11.a.2. 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.a.3. 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.a.4. When a center occupies space it does not own, the name and telephone number of the owner of the building.

19.11.b. When a center operates a summer recreation camp program at a site where a direct-line telephone is not available:

19.11.b.1. When the site is within range of a cellular phone or other communication device, a center shall ensure that staff members are equipped with a cellular phone or other device in working order; and

19.11.b.2. When the site is not within range of a cellular phone or other communication device, a center shall ensure that staff members have a plan for contacting help in the case of an emergency.

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 spit tobacco use 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. Staff shall ensure that children will not see anyone smoking or using any tobacco products while at the day care center.

20.1.d. All tobacco products, lighters and matches shall be kept out of the children's reach.

20.2. Safety of Premises, Furnishings, Equipment and Supplies. A center shall:

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 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, except when one side of the sleeping equipment is against a wall;

20.2.e. In all rooms occupied by a child, maintain a temperature not less than sixty-eight (68) degrees Fahrenheit at floor level and not higher than eighty-five (85) degrees Fahrenheit.

20.2.f. For lighting:

20.2.f.1. In rooms occupied by a child for program activities, provide a minimum of fifty (50) foot candles of illumination at floor level;

20.2.f.2. In areas not occupied by a child, provide at least thirty (30) foot candles of illumination at floor level;

20.2.f.3. When a child is sleeping, provide light for supervision; and

20.2.f.4. When a center operates evening or nighttime programs, provide outdoor lighting at all entrances and exits used by a child.

20.3. Potential Hazards of Premises, Furnishings, Equipment and Supplies.

20.3.a. 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 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

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 remove lead paint from the premises according to current safety standards and at a time when the children are absent during the entire removal process.

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 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 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 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 play 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 is free of 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, that 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 shall ensure that an outdoor play area for a school age child only does not have to be an enclosed space, but is evidenced by the Secretary to be hazard-free.

20.4.b. Surfaces for Play Area. A center shall have up to two (2) years from the effective date of this rule to comply with the requirements of this section to 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:

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 CPSC in Appendix 78-1 F 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.

20.4.b.5. That concrete footings are covered by surface material to a depth that is adequate to prevent injury from a fall as recommended by the CPSC 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 traffic, including on the street; and

20.4.c.4. When there is reason to believe that exposure to the soil in the outdoor play area might harm the child, a center shall have 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 they have 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.

22.1. When providing transportation, a center shall ensure that:

22.1.a. The vehicle used is currently licensed, inspected, insured, and is equipped with signs and warning lights or alternative warning devices as required by W. Va. Code §17C-2-7a;

22.1.b. The driver is at least twenty-one (21) years of age and holds a current driver's license;

22.1.c. The driver or qualified staff member ensures that each child three (3) years of age and under is secured in an approved child safety seat, and each child more than three (3) years of age is secured with seat belts at a ratio of one child per seat belt; and

22.1.d. The vehicle is equipped with emergency supplies, including a first-aid kit and fire extinguisher.

§78-1-23. Enforcement Actions.

The Secretary may revoke or make a license provisional, or issue an order of closure to a Day Care Center in accordance with W. Va. Code §§49-2B-11 and -12.

§78-1-24. Administrative and Judicial Review.

24.1. In accordance with the provisions of W. Va. Code §49-2B-13, an applicant or licensee aggrieved by a decision of the Secretary may seek an administrative review of the decision by making a request for a hearing by the Secretary within thirty (30) days of receiving notice of the decision.

24.2. An applicant or licensee may seek immediate relief from a decision of the Secretary by a showing of good cause made by verified petition to the circuit court of Kanawha County or the circuit court of the county in which the affected center is located.

78CSR1

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

**SERIES 1
DAY CARE CENTERS LICENSING**

APPENDICES

78-1 A: CORE COMPETENCIES OF EARLY CHILDHOOD EDUCATORS

78-1 B: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITIES

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APPENDIX 78-1 A: CORE COMPETENCIES OF EARLY CHILDHOOD EDUCATORS

Core Competencies of Early Childhood Educators have been developed in West Virginia to identify the skills and knowledge that early childhood educators need to effectively serve young children and their families. In West Virginia, it is implicitly understood that these competencies are necessary to promote the optimal development of all children, including those with special needs, and that activities and environments should be adapted to accommodate each child's learning modality and style.

The Core Competencies of Early Childhood Educators developed in West Virginia are based on the National Association for the Education of Young Children's (NAEYC) *Guidelines for the Preparation of Early Childhood Professionals* and the requirements for the Child Development Associate (CDA) credential. A competent early childhood educator:

Safety

- Provides a safe environment to prevent and reduce injuries;
- Is attentive to children's activities;
- Has skills and knowledge to prevent injuries and handle emergencies and injuries appropriately when they occur;
- Has formal training and current Certification in First Aid for children, including rescue breathing; and
- Recognizes indicators of child abuse and neglect and understands legal responsibility to report suspected child abuse.

Health

- Is familiar with what diseases require exclusion of children; what diseases require isolation of children in attendance; and what diseases and conditions can be included in the regular classroom;
- Models and promotes good health and nutrition habits;
- Provides environment that contributes to the prevention of illness;
- Nurtures children's developing identity and feelings of self-worth;
- Integrates health care activities into the curriculum;
- Can identify symptoms of common early childhood illnesses;
- Provides for nutritional needs of children as specified under USDA; and
- Can demonstrate effective procedures to prevent the spread of disease.

Environment

- Appropriately addresses issues of space, social relationships, materials and routines in setting the environment;
- Promotes warm, positive, nurturing and respectful interactions among providers, children and families;
- Creates an interesting, secure and enjoyable environment that encourages play, exploration and learning;
- Supports a broad array of experiences;
- Establishes a reliable routine;
- Maintains an appropriate adult/child ratio; and
- Encourages visits and participation by parents and includes families as partners in the provision of services.

Physical Development

- Provides a variety of equipment, activities and opportunities to promote the physical development of children;
- Provides for physical development, including large and small muscle strengthening, coordination and control;
- Recognizes, respects and accommodates wide differences in individual rates of physical development;
- Demonstrates an understanding of patterns and stages of a child's physical growth; and
- Observes and discusses with parents and notes in writing any unusual patterns of growth or unusual behavior that might be related to physical capability.

Cognitive Development

- Provides activities and opportunities that encourage curiosity, exploration and problem-solving;
- Uses developmental criteria and an understanding of learning styles in working with children;
- Responds to children's interests by providing new learning opportunities;
- Responds to children's questions with information and enthusiasm;
- Respects the relationship of cognitive development to other areas of development (physical, social and emotional);
- Demonstrates an understanding of patterns and stages of a child's cognitive growth; and
- Understands and can explain to parents the ways in which each of the activities for children contribute to cognitive development.

Development of Creativity

- Provides opportunities that stimulate children to play with sound, rhythm, language, materials, space and ideas in individual ways;
- Supports and respects children's expression of creative abilities;
- Encourages spontaneous expression; and
- Expands children's imaginations.

Communication

- Communicates verbally and non-verbally with other staff to create a well-functioning team;
- Models good communication skills;
- Provides opportunities and support for children to understand, acquire and use verbal and non-verbal means of communicating thoughts and feelings;
- Provides ample opportunity for children to listen, interact and express themselves freely with other children and adults; and
- Demonstrates an understanding of the patterns and stages of a child's language development.

Self

- Provides physical and emotional security for each child;
- Helps each child to know, accept and take pride in himself or herself;
- Helps children develop independence;
- Demonstrates and encourages respect for and valuing of cultural, racial, gender, socio-economic and physical ability differences;
- Supports the child's self-esteem by providing opportunities for children to master new abilities, to experience success and safely make mistakes;
- Helps children find their own ways to handle increasingly challenging tasks;
- Demonstrates an understanding of patterns and stages of a child's self-growth;
- Recognizes each child as a unique person and establishes a caring relationship; and
- Recognizes each child's identity as part of a family and works in partnership with parents.

Social

- Helps each child feel secure and accepted in the group;
- Helps children Learn to communicate and get along with others;
- Encourages feelings of empathy and mutual respect among children and adults;
- Integrates multi-cultural and anti-bias themes, literature and experience in all curriculum areas;
- Demonstrates an understanding of patterns and stages of a child's social development; and
- Demonstrates the ability to facilitate the development of group cooperation among the children and to contribute to a feeling of community and family supportiveness in the program as a whole.

Guidance

- Provides a supportive environment in which children learn and practice appropriate and acceptable behaviors;
- Provides consistent limits and realistic expectations;
- Clearly and positively defines expectations;
- When setting expectations, takes into account each child's development and needs;
- Supports children's efforts to independently resolve their own problems;
- Discusses guidance with parents and makes sure that children understand any differences in approach between the home and the program; and
- Demonstrates ability to use positive methods of guidance rather than punishment.

Families

- Supports the family's role as primary care giver and teacher of their children;
- Respects and supports each child's cultural, racial and socio-economic background;
- Creates and maintains open, friendly, cooperative relationships with each child's family;
- Encourages each family's involvement in the program in a variety of ways, responsive to each family situation:
 - Supports the child's relationship with his or her family;
 - Respects the diverse values of families;
 - Individualizes referrals to community resources for families;
 - Recognizes children and families with emotional distress, abuse and neglect, and provides avenues of assistance;
 - Establishes regular communication with parents to gain needed information about the child's life outside the program and give parents needed information about the child's play; and

- Generates opportunities for the program and parents to collaborate.

Program Management

- Works cooperatively with co workers and families;
- Has a systematic approach to organizing, planning and keeping records;
- Delegates responsibility;
- Uses all available resources to ensure effective operation;
- Keeps accurate records of needs, plans and practices; and
- Observes and records children's behavior, and makes plans based on observed needs.

Professionalism

- Makes decisions based on knowledge of early childhood theories and practices;
- Promotes quality in child care services;
- Takes advantage of opportunities to improve competence;
- Continues to set new goals, and takes initiative;
- Works to resolve issues and problems cooperatively and respectfully;
- Advocates for quality child care;
- Develops relationships with other child care professionals for support and information exchange;
- Is familiar with and assists families in accessing available community resources; and
- Joins professional organizations and plays responsible role.

Source: West Virginia Professional Development System.

APPENDIX 78-1 B: 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	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	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, containers 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	<p>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), doll 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.</p>
Exploration and Mastery of Skills and Language	<p>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 books with repetition for lap reading, and (from about 18 months) touch-me or tactile books.</p>
Music, Art and Movement	<p>Art and Crafts: a few large, nontoxic crayons and large paper taped to a surface; Musical Instruments: rhythm instruments operated by shaking (bells, 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.</p>

Gross Motor

Large-Movement - Push and Pull Toys : push toys with rods with large 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, soft 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	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), doll 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 piece fit-in puzzles (from 24 months), and (from 30 months) 6-12 piece 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 (bells, 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" 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	<p>Mirrors: full-length mirror, 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), doll 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 supporting materials such as a vehicle or road sign or barn, to use with blocks or other materials to make a familiar scene.</p>
Exploration and Mastery of Skills and Language	<p>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 blocks, 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.</p>

<p>Music, Art and Movement</p>	<p>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.</p>
<p>Gross Motor</p>	<p>Large-Movement - Push and Pull Toys : small wagons and wheelbarrows, push toys that look like adult equipment, and (from 60 months) full-size 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.</p>

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 concept development and problem-solving activities; Books: a wide range of books at a wide variety of difficulty levels for children to read, story books for reading aloud, books made by the children; 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 (checkers, Chinese checkers).
Music, Art and Movement	Art and Crafts: a large variety of materials - crayons, markers, colored pencils, art chinks 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-mâché, 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 C: REPORTABLE ILLNESSES *

Reporting of the following communicable diseases* is required by State law (W.Va. Code 16-3-1 and Division of Health Rule, "Reportable Diseases, Events and Conditions", 64CSR7.

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*)**

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 on 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/oeph/adc.

For emergency contact information after hours, call 1-304-558-4117.

October, 2000

APPENDIX 78-1 D: NUTRITION - FOOD GROUPS AND MEAL PATTERNS

4.1: FOOD GROUPS

The United States Department of Agriculture's Dietary Guidelines for Americans recommend serving foods from the four (4) basic food groups: milk, protein, fruits and vegetables, and grains. The chart below provides sample foods from each food group.

	FOOD GROUP	SAMPLE FOODS
1	Milk	milk, yogurt, cheese
2	Protein	meat, fish, poultry, eggs, peanut butter, dried beans, dried peas
3	Fruits and Vegetables	a wide variety of green, white, yellow and red vegetables and fruits
4	Grains	whole grain and enriched breads, cereals, pasta, crackers, and rice

4.2: MEAL PATTERNS

When planning meals and snacks, centers can be guided by the following meal patterns that are consistent with the United States Department of Agriculture's Dietary Guidelines for Americans and were developed for the Child and 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	4-8 fl. oz. Formula ¹ or Breast milk ^{2 3} 0-3 Tbsp. Infant Cereal ^{1 4}	4-8 fl. oz. Formula ¹ or Breast milk ^{2 3} 0-3 Tbsp/ Infant Cereal ^{1 4} 0-3 Tbsp. Fruit and/or Vegetable	4-8 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 ½ -2 oz. 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 . ½ Bread ^{4,6} 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	⅓ 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 yogurt, plain or sweetened and flavored	½ oz. 2 oz. or ¼ cup	½ oz. 2 oz. or ¼ cup	1 oz. 4 oz. or 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	⅓ 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	⅜ cup	½ cup
Peanut Butter, soynut, or other nut seed butter	2 Tbsp.	3 Tbsp.	4 Tbsp.
Peanuts, soynuts, or tree nuts or seeds	½ oz. (50%)	¾ oz. (50%)	1 oz. (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 ¼ cup	½ slice ¼ cup	1 slice ½ cup

¹¼ cup (volume) or ⅓ ounce (weight), whichever is less.

²⅓ cup (volume) or ⅓ ounce (weight), whichever is less.

³¾ cup (volume) or 1 ounce (weight), whichever is less.

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APPENDIX 78-1 E - 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 and 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.

APPENDIX 78-1 F: 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.

TABLE 1 – CRITICAL HEIGHTS (in feet) OF TESTED MATERIALS				
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 tests conducted by independent testing laboratories on a 6 inch depth of uncompressed shredded tire samples produced by four manufacturers. The tests 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 F1 292.

Source: Adapted from the *Consumer Product Safety Commission Handbook for Public Playground Safety* (Publication No. 325)

APPENDIX 78-1 G: 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 Ratios 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
13-24 months	2	1
25 - 59 months	4	1
60 months and over	8	1