

R381-100- 8: ADMINISTRATION

Purpose

This section provides rules and information about the administration of the facility.

(1) The licensee is responsible for all aspects of the operation and management of the center.

Rationale / Explanation

The Licensee may delegate responsibilities under this rule to staff in the child care center. However, ultimate responsibility for compliance with all licensing rules rests with the Licensee. The Licensee must ensure that he or she has adequate oversight of staff to whom duties have been delegated to ensure the delegated duties are completed as assigned.

Enforcement

Level 1 Noncompliance if the lack of adequate oversight resulted in noncompliance with one or more rules that have been identified as Level 1 Noncompliance rules.

Level 2 Noncompliance if the lack of adequate oversight resulted in noncompliance with one or more rules that have been identified as Level 2 Noncompliance rules.

Level 3 Noncompliance if the lack of adequate oversight resulted in noncompliance with one or more rules that have been identified as Level 3 Noncompliance rules.

Assessment

Any time there is a child in care (meaning the care in lieu of parental care of an unrelated child) the Licensee must be in compliance with licensing rules. This includes care provided at the facility by anyone at any time. This also includes care provided at another location when the children in care are the responsibility of the Licensee.

This rule will be considered out of compliance if a Licensee instructs an employee to disregard or be out of compliance with a licensing rule or rules.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care center.

Rationale / Explanation

This rule is intended to address problems which are not already addressed in other child care licensing rules, but which involve the violation of a federal, state, or local law or administrative rule of another agency that applies to the operation of a child care center.

Enforcement

A finding for this rule is issued only when there is not another licensing rule that addresses the situation. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing rules.

Level 1 Noncompliance if a Licensee fails to submit the Annual Immunization Report.

Assessment

If the law or rule from one agency is more strict than another the licensee must follow the strictest of the two.

A finding for this rule is issued only when there is not another licensing/certificate rule that addresses a problem. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing/certificate rules.

- (3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.**

Rationale / Explanation

This rule is intended to address problems which are not already specifically mentioned in other child care licensing rules but which jeopardize children's well-being.

Enforcement

A finding for this rule is issued only when there is not another licensing rule that addresses the situation. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing rules.

- (4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.**

Rationale / Explanation

This rule is intended to address problems which may arise that are not specifically mentioned in other child care licensing rules but which jeopardize children's safety.

Enforcement

A finding for this rule is issued only when there is not another licensing rule that addresses the situation. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing rules, except for the situations below:

Level 2 Noncompliance if:

- a child's elbow is dislocated after his/her arm is jerked or pulled or the child is lifted or swing by his/her arm (Nursemaid's Elbow)
- If the door to the street or parking is propped open and there are no caregivers or children in the room.
- Accessible buckets that have two inches or more of standing water and are unattended and not in use.

Level 3 Noncompliance for open, unscreened first floor windows.

Assessment

Noncompliance to this rule includes jerking, pulling, lifting or swinging a child by the arm(s), which can cause a partial dislocation of the elbow, also referred to as Nursemaid's Elbow.

- (5) **Either the center director or a designee with authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.**

Rationale / Explanation

The purpose of this rule is to ensure that there is always a qualified individual on-site who assumes responsibility for the management of the center and the protection of children's health and safety. Lines of responsibility need to be clearly delineated, including the presence at all times of an individual who is designated to have responsibility for compliance with licensing rules. *CFOC, 3rd Ed. pg. 347 Standard 9.1.0.1*

Enforcement

Level 1 Noncompliance if there is noncompliance (due to an absent director or designee) with one or more rules that have been identified as Level 1 Noncompliance rules.

Level 2 Noncompliance if there is noncompliance (due to an absent director or designee) with one or more rules that have been identified as Level 2 Noncompliance rules.

Level 3 Noncompliance if there is noncompliance (due to an absent director or designee with one or more rule that have been identified as Level 3 Noncompliance rules, or if no director or designee is present.

Assessment

A finding to this rule will be issued during any on-site inspection at which a qualified director or director designee is not present.

- (6) **Director designees shall be at least 21 years of age, and shall have completed their pre-service training.**

Rationale / Explanation

Completion of orientation training prior to assuming director designee duties helps to ensure the smooth functioning of the center, and is essential in order to protect the health and safety of the children in care. *CFOC, 3rd Ed. pgs. 21- 22 Standard 1.4.2.1*

Enforcement

Level 2 Noncompliance if the director designee has not completed his or her orientation training or is less than 18 years old.

Level 3 Noncompliance if the director designee is at least 18 years old, but not yet 21 years old.

- (7) **The center director shall be on-site at the center for at least 20 hours per week during operating hours in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.**

Rationale / Explanation

The director of a center plays a pivotal role in ensuring the day to day smooth functioning of the facility within the framework of appropriate child development principles. The well-being of the children in the facility depends largely upon the knowledge, skills, and dependable presence of a director who is able to respond to long-term and immediate needs, and who is able to engage staff in appropriate decision making that affects their day to day practices with children.

CFOC, 3rd Ed. pgs. 10-11 Standard 1.3.1.1.

Enforcement

Level 1 Noncompliance if the director is not on-site at least 20 hours per week and there is noncompliance (due to an absent director) with one or more rules that have been identified as Level 1 Noncompliance rules.

Level 2 Noncompliance if the director is not on-site at least 20 hours per week and there is noncompliance (due to an absent director) with one or more rules that have been identified as Level 2 Noncompliance rules.

Level 3 Noncompliance if the director is not on-site at least 20 hours per week and there is noncompliance (due to an absent director) with one or more rules that have been identified as Level 3 Noncompliance rules or if the director is not present at least 20 hours per week.

Assessment

Time that center directors spend on bus runs or running center related errands can count towards the required 20 on-site hours per week.

If a center director will be absent from the center for longer than three months (for example, due to maternity leave), the Licensee must apply for a change of director and have a qualified director present during the regular director's leave of absence.

(8) The center director must have sufficient freedom from other responsibilities to manage the center and respond to emergencies.

Rationale / Explanation

The purpose of this rule is to ensure that the center director is available and has sufficient freedom to perform the many duties that are required in order to supervise caregivers, ensure adequate communication with parents, monitor and correct health and safety hazards, and otherwise maintain compliance with the licensing rules. *CFOC, 3rd Ed. pg. 12 Standard 1.3.1.2.*

Enforcement

Level 1 Noncompliance if there is noncompliance (due to a director with insufficient freedom from other responsibilities) with one or more rules that have been identified as Level 1 Noncompliance rules.

Level 2 Noncompliance if there is noncompliance (due to a director with insufficient freedom from other responsibilities) with one or more rules that have been identified as Level 2 Noncompliance rules.

Level 3 Noncompliance if there is noncompliance (due to a director with insufficient freedom from other responsibilities) with one or more rules that have been identified as Level 3 Noncompliance rules or if no director or designee is present.

Assessment

This rule does not require director designees to have freedom from caregiving duties.

In centers with an average daily attendance of 40 children or less, the center director may have permanent part time (20 hours or less hours per week) caregiver duties. In centers with an average daily attendance of 30 children or less, the center director may have permanent full-time caregiving duties.

- (9) There shall be a working telephone at the facility, and the center director shall inform a parent and the Department of any changes to the center's telephone number within 48 hours of the change.

Rationale / Explanation

The purpose of the rule is to ensure that staff can contact the parents of children in care, that the parents of children in care can contact staff, and that staff can always contact emergency personnel (fire, police, ambulance, etc.) if needed.

CFOC, 3^d Ed. pg. 243 Standard 5.3.1.12

Enforcement

Level 1 Noncompliance if there is an emergency and there is not a working telephone at the facility. Level 2

Noncompliance if there is no working telephone at the facility.

Level 3 Noncompliance if there is working phone at the facility but staff does not notify parents or the department staff of a change in phone number.

Assessment

If the phone for the center is a cell phone and it is not on site, this rule will be considered in compliance as long as there is a way for staff member to call 911.

- (10) The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

Rationale / Explanation

The purpose of this rule is so that the Department staff can work with center staff to correct unsafe or unhealthy conditions and to prevent future or additional harm to children. *CFOC, 3^d Ed. pg. 383 Standard 9.4.1.10*

Enforcement

Level 1 Noncompliance for not reporting a fatality. Level 3

Noncompliance otherwise.

Assessment

For the purposes of this rule, emergency medical response means a call to 911 (or the police, ambulance, or fire department, if any of these are called because of an injury to a child).

Attention from a health care provider means the child was physically seen and examined by a health care professional. Center staff must report injuries that require attention from a health care provider as soon as they become aware of the visit to the health care provider (for example, in situations where the parent took the child to a health care provider after leaving the center).

In the event of a serious injury that requires the parent to take their child to a health care provider, the parent may sign the accident report the next time they are at the center.

When an accident/injury report is received but Child Care Licensing did not receive notification of the accident/injury within 24 hours, a finding will be issued.

To be in compliance with this rule the provider may choose to email the accident/injury report **or enter the report on the Child Care Licensing Portal.**

If a staff's child under age four has an accident or injury, all required documentation and reporting must be completed.

The days will be calculated as the working days of the Child Care Licensing Program. This rule will be considered in compliance if the provider notifies the Department by the next Department working day.

Whenever the parents are on site and have taken responsibility for their own children, if the child is injured a report is not required.

(11) The duties and responsibilities of the center director include the following:

- (a) appoint one or more individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the center director in his or her absence;**

Enforcement

Always Level 3 Noncompliance.

(11) The duties and responsibilities of the center director include the following:

- (b) train and supervise staff to:**
 - (i) ensure their compliance with this rule;**
 - (ii) ensure they meet the needs of the children in care as specified in this rule; and**

Rationale / Explanation

The purpose of this rule is to ensure that all center staff have the training and ongoing supervision needed to ensure they protect children's health and safety as required in the licensing rules. *CFOC, 3rd Ed. pgs. 21-22 Standard 1.4.2.1, pgs. 23-24 Standard 1.4.2.3, pgs. 43-44 Standards 1.8.2.2, 1.8.2.3, 1.8.2.4*

Enforcement

Level 1 Noncompliance if a caregiver is not adequately trained or supervised to comply with any rule and a child is harmed as a result of this.

Level 3 Noncompliance otherwise, including if a caregiver is not adequately trained to report child abuse and neglect to the proper authorities.

- (11) The duties and responsibilities of the center director include the following:
- (b) train and supervise staff to:
 - (iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

Enforcement

Always Level 1 Noncompliance.

- (12) The licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing. The provider shall establish and follow written policies and procedures for the health and safety of the children in care.

Rationale / Explanation

The purpose of this rule is to ensure that there are written policies in place to protect children's health and safety. An organized, comprehensive approach to ensuring children's health and safety is necessary in child care centers. Such an approach requires written plans, policies, and procedures, and adequate record-keeping so that there is consistency over time and across staff, as well as an understanding between parents and caregivers. This allows clear expectations to be communicated to staff, and helps center directors train and hold staff responsible for following the written policies. *CFOC, 3rd Ed. pgs. 348-350 Standards 9.2.1.1, 9.2.1.2, 9.2.1.3, pg. 351 Standard 9.2.1.6*

A yearly review of the center's written policies encourages administrators to keep this information current. Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. *CFOC, 3rd Ed. pg. 349 Standard 9.2.1.2*

Enforcement

Level 2 Noncompliance if the provider does not follow his/her written policies for (a)-(d) or (g)-(k). Level

3 Noncompliance if the provider does not follow his/her written policies for (e) or (f).

Assessment

A finding to this rule is issued if the provider does not have any written policies or has them but does not follow them.

When an owner/director updates the center's policies and procedures they must submit the changed procedures to the Child Care Licensing for approval. Once approved, Child Care Licensing will have them scanned and send the approved policies back to the owner/director.

Rationale / Explanation

The purpose of this rule is to ensure that there are written policies in place to protect children's health and safety. An organized, comprehensive approach to ensuring children's health and safety is necessary in child care centers. Such an approach requires written plans, policies, and procedures, and adequate record-keeping so that there is consistency over time and across staff, as well as an understanding between parents and caregivers. This allows clear expectations to be communicated to staff, and helps center directors train and hold staff responsible for following the written policies. *CFOC, 3rd Ed. pgs. 348-350 Standards 9.2.1.1, 9.2.1.2, 9.2.1.3, pg. 351 Standard 9.2.1.6*

A yearly review of the center's written policies encourages administrators to keep this information current. Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. *CFOC, 3rd Ed. pg. 349 Standard 9.2.1.2*

Enforcement

Always Level 3 Noncompliance.

Assessment

A finding to this rule is issued if the provider has written policies but they are missing one or more of the required topics.

For the purpose of this rule, walking the children to and from school is considered transporting them. In this situation, the provider should have written policies addressing each item in (k) except for (iv). For (ii) the provider can substitute the word "provider" for the word "vehicle".

(13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

Rationale / Explanation

Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. *CFOC, 3rd Ed. pg. 349 Standard 9.2.1.2.*

Access to these written policies by parents and staff is important to ensure that all parties understand the center's policies and expectations, and to help staff remember and follow the policies. Review of the written policies by the Department is used to determine, in part, the Licensee's compliance with the licensing rules. *CFOC, 3rd Ed. pg. 380 Standard 9.4.1.5*

Enforcement

Always Level 3 Noncompliance.

This means the policies and procedures must be available at the center and can be provided to parents, employees, or Child Care Licensing staff upon request.