

Family and Residential Certificate

Rule Interpretation, Enforcement and Assessment Manual

Legal Authority and Purpose

R430-90-1

This rule is promulgated pursuant to Title 26, Chapter 39. This rule establishes standards for the operation and maintenance of licensed family child care providers who care for one to 16 children in their home. It establishes minimum requirements for the health and safety of children in the care of licensed family providers.

R430-50-1

This rule is promulgated pursuant to Title 26, Chapter 39. This rule establishes standards for the operation and maintenance of residentially certified child care providers who care for one to eight children in their home. It establishes minimum requirements for the health and safety of children in the care of residentially certified providers.

Introduction to Child Care Licensing

Child Care Licensing is a program within the **Bureau of Child Development**. The **mission** of the Bureau of Child Development is *to support the health and development of Utah families and their children*. The Child Care Licensing Program supports the Bureau mission by ensuring that child care facilities meet **health and safety** standards. The Program regulates both in-home child care providers and child care centers.

Because we are a regulatory agency, no staff member may accept gifts of any kind. This includes food, treats, gift certificates or handmade gifts. Child Care Licensing has adopted the Code of Conduct provided by the National Association for Regulatory Administration (NARA). A copy of the entire Code of Conduct is available on our website, childcarelicensing.utah.gov.

Program Vision Statement

Access to safe, healthy child care for Utah families.

Program Mission

To support working parents by protecting the health and safety of children in regulated child care program. This is accomplished by:

- *Establishing and enforcing health and safety standards for child care programs.*
- *Training and supporting providers in meeting the established health and safety standards.*
- *Providing the public with accurate information about regulated child care.*

Inspection Process

Compliance to licensing rules is **determined through** an **inspection** process. The inspections are conducted by Licensing Specialists who use approved checklists. The **checklists** are published on our website at childcarelicensing.utah.gov. These checklists ensure consistency for each inspection. There are several types of inspections that are described below.

Annual Announced Inspections

This inspection is scheduled with the Provider and **takes place 60 to 120 days prior to the license expiration date**. This allows an adequate amount of time for Licensing Specialists to verify compliance with all rules before the license is renewed.

During this inspection all rooms and areas (including closets) that are accessible to children will be assessed. This includes rooms and areas accessible to unsupervised children on their way to and from bathrooms. Areas that are inaccessible to children will need to be opened to ensure the entire facility is inspected. These areas should not be opened or unlocked until requested by a licensing staff member.

The Annual Announced Inspection consists of the following components:

- An interview with the Provider that may be conducted before or during the on-site inspection.
 - Advantages of the Provider being interviewed prior to the inspection are:
 - The on-site inspection takes less time.
 - A question that is answered incorrectly will be asked again at the inspection. If answered correctly at the inspection, it will be considered in compliance.
 - The Provider may read the questions from the checklist prior to the phone interview.
- An inspection of all rooms and areas including areas that are not used for child care.
- An inspection of the outdoor play area and equipment.
- An observation of a diaper change.
- An inspection of all vehicles used to transport the children.
- A review of the required records. This includes the facility's general paperwork, each staff member's records and the records of the children in care. A comprehensive list is found in Section 9 of the licensing rules.

Depending on the size of the facility and the number of staff and enrolled children, the Announced Inspection takes approximately one to two hours to complete. The inspection process will proceed more quickly and smoothly if:

- The Provider is not scheduled for other duties such as transporting children, preparing meals during the inspection.
- Keys to locked areas of the facility are readily available. Rooms/areas that are required to be locked by rule are not unlocked until requested by the Licensing Specialist.
- Providers tell the Licensing Specialist when a child is ready to be diapered.
- Vehicles are available some time during the inspection.
- Required paperwork is completed, organized and available for review.

All sheds, garages, and storage areas will be inspected. During this inspection, the Licensing Specialist will ask for locked areas to be unlocked. If the areas are normally locked please do not unlock them until requested.

Unannounced Inspections

This inspection is not scheduled with the Provider and takes place **sometime during the licensing year**. Each facility will receive one of these inspections annually.

During this inspection all rooms and areas (including closets) that are accessible to children will be assessed. This includes rooms and areas accessible to unsupervised children on their way to and from bathrooms. Areas that are inaccessible to children will need to be opened to ensure the entire facility is inspected. These areas should not be opened or unlocked until requested by a licensing staff member.

The Unannounced Inspection is an assessment of the entire facility but limited paperwork will be reviewed. Because a shortened checklist is used, it takes significantly less time to conduct these inspections.

Follow-Up Inspections

Licensing Specialists conduct Follow-Up Inspections to **verify** that any **rule violations** found in previous inspections are **corrected**, and to ensure that there are no new serious noncompliance findings. Follow-Up inspections are **always unannounced**.

If more than one Follow-Up Inspection is required for the same rule violations, a charge for each additional Follow-Up inspection will be required as set by the Utah State Legislature.

Complaint Investigations

In addition to routine inspections, **reports that allege violations** of licensing rules are investigated by a Complaint Investigator. The type and scope of each investigation vary based on the information received in the complaint. Because each investigation is specific to the complaint, a checklist is not used for these inspections. Depending on information received or witnessed, Follow-Up Inspections may need to be conducted.

After Each Inspection

At the end of each inspection:

- If all rules are in compliance, the Licensing Specialist will inform the provider of the results and send a letter indicating that there were no rules out of compliance during the inspection.
- If there were rule violations, the Licensing Specialist will give the Provider a list of the non compliant items.
- The Licensing Specialist will give the Provider an opportunity to discuss each item and provide feedback.
- Together, they will decide a date of correction for each item out of compliance. However, if an item poses serious risk to the children, a date of correction may not be negotiated but will be set by the Licensing Specialist.
- The Licensing Specialist will send a **Statement of Findings** letter stating the items found out of compliance, the level of noncompliance, and the date the item must be corrected.
- A Licensing Specialist will conduct an unannounced follow-up visit to verify that all noncompliance items have remained corrected or have been corrected, and that there are no new serious rule violations.
- The provider will have an opportunity to submit a licensure/inspection evaluation.

Purpose and Use of the Interpretation Manual

This manual has been prepared for child care owners, providers, and licensing staff, to ensure statewide consistency. The information in this manual has been prepared to help with understanding and enforcement of child care licensing rules. This manual contains the following information:

Purpose – A brief description of each section in the manual.

General Information – Provides general rationale and explanations that pertain to all rules in the section.

Rule Text – The text of each rule is printed in black bold font.

Rationale / Explanation – Explains the reason for each rule, and may also give additional helpful information about the rule.

Enforcement – Describes the level of noncompliance to the rule.

Assessment – Describes how the rule will be enforced and assessed.

The Child Care Licensing Program enforces basic health and safety standards based on best practice for child care programs.

Information in the Rationale/Explanation section for most rules contains a reference to “CFOC.” CFOC refers to the book *Caring for Our Children: Guidelines for Out-of-Home Child Care Programs*. This book contains health and safety standards for all types of child care programs. It is published by the American Academy of Pediatrics, the American Public Health Association, and the U.S. Department of Health & Human Services, Maternal and Child Health Bureau. The standards in *Caring for Our Children* are generally accepted in the field as best practice standards for health and safety in child care programs. Utah has implemented a portion of these standards in our child care licensing rules.

This manual will be periodically updated and available on the Child Care Licensing website at: childcarelicensing.utah.gov. The revision date of the manual is found in the bottom left-hand corner of each page.

The chart [on the next page](#) shows the noncompliance levels and finding categories that Licensing Specialists use when issuing Statements of Findings. The “Enforcement” information in the Rule Interpretation Manual specifies the noncompliance level(s) associated with Statements of Findings. Noncompliance to rules varies in severity, based on the potential or actual harm to children.

Noncompliance Levels	Finding Categories		
	Technical Assistance	Cited	Repeat Cited
Level 1	Level 1 Technical Assistance	Level 1 Cited	Level 1 Repeat Cited
Level 2	Level 2 Technical Assistance	Level 2 Cited	Level 2 Repeat Cited
Level 3	Level 3 Technical Assistance	Level 3 Cited	Level 3 Repeat Cited

The chart below shows the consequences of noncompliance, based on the different finding levels and categories.

	1 st Instance of Noncompliance	2 nd Instance of Noncompliance	3 rd Instance of Noncompliance	4 th Instance of Noncompliance
Level 1	Level 1 Cited, Civil Money Penalty (CMP) Warning, On public record	Level 1 Repeat Cited, CMP Assessed, On public record	Level 1 Repeat Cited, CMP Assessed, On public record	Level 1 Repeat Cited, CMP Assessed, On public record
Level 2	Level 2 Technical Assistance, Not on public record	Level 2 Cited, CMP Warning On public record	Level 2 Repeat Cited, CMP Assessed, On public record	Level 2 Repeat Cited, CMP Assessed, On public record
Level 3	Level 3 Technical Assistance, Not on public record	Level 3 Technical Assistance, Not on public record	Level 3 Cited, CMP Warning, On public record	Level 3 Repeat Cited, CMP Assessed, On public record

The one exception to the chart above is if actual harm to a child results from noncompliance with a rule. When this is the case, the Statement of Findings category may rise to cited for the first instance of noncompliance and a CMP may be assessed.

Civil Money Penalties (CMP) are assessed if there are two or more consecutive cited findings to the same rule during the last 12 months or since the last Annual Announced Inspection.

All cited findings and any substantiated allegations resulting in a Statement of Findings from a complaint investigation, regardless of the level and category, will be part of the provider's public record.

Recurring and/or severe noncompliance can lead to other actions, such as: Intent to Revoke, Conditional Status, Revocation, and Immediate Closure.

Providers have 30 days to appeal any action taken by the Child Care Licensing Program. This includes Statement of Findings and Civil Money Penalties. The actions are not finalized or put on the provider's public record until the appeal period has passed.