

## R381-100-6. ADMINISTRATION AND CHILDREN'S RECORDS.

This section explains the rules dealing with the provider's responsibilities in operating and managing a child care facility. It also details the rules regarding children's records.

### *Administration*

**(1) The provider shall:**

- (a) be at least 21 years of age;
- (b) pass a CCL background check; and
- (c) complete the new provider training offered by the department.

### **Compliance Guidelines**

The provider must be in compliance with the requirements of this rule before a license is issued.

### *Background Checks*

The provider must pass a CCL background check.

- Background checks that are processed by other organizations do not meet the requirements of this rule.
- Instructions for requesting a CCL background check are found at: "[How to Submit Background Check Forms, Fingerprints, & Fees](#)" or in "Section 8: Background Checks" in the [Interpretation Manual](#).

### *Training*

Complete the New Provider training under [Free Training for Providers and Caregivers](#).

- (2) If the owner is not a sole proprietor, the business entity shall submit to the department the name and contact information of the individual or individuals who shall legally represent them and who shall comply with the requirements stated in Subsection R381-100-6(1).**
- (3) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, morals, welfare, and safety of the public.**

### **Rationale/Explanation**

Child care staff members are important figures in the lives of the young children in their care and in the well-being of families and the community. CFOC 4th ed. Standard 1.4.2.1 p.p. 23.

### Compliance Guidelines

In the event of a public emergency, the provider shall follow conditions put in place by the department.

This rule will be considered out of compliance if:

- A child's well-being has been jeopardized or the provider's conduct is contrary to the health, morals, welfare, and safety of the public; and
- There is no other licensing rule that specifically addresses the situation.

Example of noncompliance:

- Evidence of committing, aiding, abetting, or permitting the commission of any illegal act.

### Corrective Action for 1st Instance

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.

- (4) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.**

### Compliance Guidelines

- The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against people with disabilities. For information about ADA requirements, refer to: [www.ada.gov](http://www.ada.gov).
- If a law or rule from one agency conflicts with the law or rule of another, the provider must follow the stricter of the two regulations.

This rule will be considered out of compliance if:

- There is a violation of federal, state, or local law or another agency's regulation regarding child care; and
- There is no other licensing rule that specifically addresses the violation.

### Corrective Action for 1st Instance

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.

- (5) The provider shall comply with licensing rules any time a child in care is present.**

### Rationale/Explanation

It is a legal requirement that any time a child in care is present, the provider must be in compliance with licensing rules. This includes care provided at the facility by anyone at any time, and care provided at any other location.

A qualifying child (both related and unrelated) is considered a child in care when the provider receives direct or indirect compensation in return for providing child care. Compensation includes food program reimbursements and child care subsidy payments.

### Compliance Guidelines

The provider is ultimately responsible for compliance with licensing rules whenever a child is in care at the facility or offsite. This means the provider is responsible for every decision made and every action taken by every person involved with the child care program. This is the case:

- Whether or not the provider is present,
- Even when the provider has delegated specific responsibilities to another individual, and
- Even if someone else disregards or violates a licensing rule while children are in care.

### Corrective Action for 1st Instance

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.

- (6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.**

### Rationale/Explanation

Each local and/or state regulatory agency gives official permission to certain persons to operate child care programs by virtue of their compliance with regulations. Therefore, documents relating to investigations, inspections, and approval to operate should be made available to consumers, caregivers/teachers, concerned persons, and the community. CFOC 4th ed. Standard 9.4.1.6 p.p. 410-411.

### Compliance Guidelines

- The child care license must be readily visible and accessible to parents, the department staff, and other members of the public who may visit the facility.
- The license must be posted during business hours. It is not required to be posted outside of business hours.

### Risk Level

Low

### Corrective Action for 1st Instance

Warning

(7) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours.

### Rationale/Explanation

The telephone number, email address, or other contact method for filing complaints should be listed on material about licensing that is given to parents/guardians by the state licensing agency and the resource and referral agency. CFOC 4th ed. Standard 10.4.3.1 p.p. 443.

### Compliance Guidelines

- The provider must use the current version of the department's Parent Guide found on the CCL website under [Forms and Documents](#).
- The Parent Guide must be located where parents can review it as they come and go.

### Risk Level

Low

### Corrective Action for 1st Instance

Warning

(8) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.

### Compliance Guidelines

To be in compliance, the provider must inform parents and CCL of any changes to the following information:

- The facility's telephone number and email address.
- The provider's (or contact person's) name, email address, and telephone number.

### Risk Level

Low

### Corrective Action for 1st Instance

Warning

(9) The provider shall:

- (a) have liability insurance, or
- (b) inform parents in writing that the provider does not have liability insurance.

### Rationale/Explanation

The liability insurance should include coverage for administration of medications, as well as for unintentional injuries and illnesses. CFOC 4th ed. Standard 9.4.1.1 p.p. 407. All vehicles transporting children must have current insurance coverage. Insurance companies can provide better information about coverage and liabilities.

### Compliance Guidelines

The provider may use any written format to inform parents if the facility does not have liability insurance.

### Risk Level

Low

### Corrective Action for 1st Instance

Warning

## Children's Records

- (10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.**

### Rationale/Explanation

The health and safety of individual children requires that information regarding each child in care be kept and made available on a need-to-know basis. CFOC 4th ed. Standard 9.4.2.1 p.p. 418.

### Compliance Guidelines

- The provider must also have a completed admission and health form for the provider's and employees' own children younger than 4 years old and any drop-in children.
- Parents may list more than one child on an admission form, but must complete a separate health assessment for each child.

### Risk Level

Moderate

### Corrective Action for 1st Instance

Citation Warning

- (11) The provider shall ensure that each child's admission and health assessment form includes the following information:**
- (a) child's name;**
  - (b) child's date of birth;**
  - (c) parent's name, address, and phone number, including a daytime phone number;**
  - (d) names of individuals authorized by the parent to sign the child out from the facility;**

- (e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;
- (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;
- (g) parent's permission for emergency transportation and emergency medical treatment;
- (h) any known allergies of the child;
- (i) any known food sensitivities of the child;
- (j) any chronic medical conditions that the child may have;
- (k) instructions for special or nonroutine daily health care of the child;
- (l) current ongoing medications that the child may be taking; and
- (m) any other special health instructions for the caregiver.

### Rationale/Explanation

The information on the admission and health assessment form is necessary to protect the health and safety of children in care. Admission of children without this information can leave the staff unprepared to manage children's daily and emergent health needs. For example:

- Names of individuals authorized to pick children up are needed to prevent children from being taken by unauthorized individuals.
- Emergency treatment consent is needed in order to obtain medical care for children in emergencies.
- Food sensitivities and allergies are common in infants and children, and staff should know in advance whether a child has a food sensitivity or allergy. Deaths from food allergies are being reported in increasing numbers. CFOC 4th ed. Standard 4.2.0.10 p.p. 168-170; CFOC 4th ed. Standard 9.4.2.8 p.p. 424.

### Compliance Guidelines

- The provider may use the CCL-approved admission and health assessment form, or they may use their own program's form as long as there is a place to document all of the information required in rule.
- The CCL-approved admission and health assessment form is found on the CCL website in the "[Forms and Documents](#)" section.

### Risk Level

Moderate

### Corrective Action for 1st Instance

Citation Warning when the form does not ask for the following information:

- Child's name
- Child's date of birth
- Parent's name, address, and phone number, including a daytime phone number

- Current emergency medical treatment and emergency transportation releases with the parent's signature
- Any known allergies of the child
- Any medical conditions that the child may have

### Risk Level

Low

### Corrective Action for 1st Instance

Warning when the form asks for the above information, but does not request the following:

- Names of people authorized by the parent to sign the child out from the facility
- Name, address, and phone number of a person to be contacted in case of an emergency if the provider is unable to contact the parent
- Name, address, and phone number of an out-of-area emergency contact person for the child
- Any known food sensitivities of the child
- Instructions for special or nonroutine daily health care of the child
- Current ongoing medications that the child may be taking
- Any other special health instructions for the caregiver

**(12) The provider shall ensure that the admission and health assessment form is:**

- (a) reviewed, updated, and signed or initialed by the parent at least annually; and**
- (b) kept on-site for review by the department.**

### Rationale/Explanation

The facility should ask parents/guardians for information regarding the child's health, nutrition, level of physical activity, and behavioral status upon registration or when there has been an extended gap in the child's attendance at the facility. The child's health record should be updated if they have had any changes in their health or immunization status. CFOC 4th ed. Standard 2.3.3.1 p.p. 84-85. A review of children's records helps CCL determine compliance with licensing rules. CFOC 4th ed. Standard 9.4.1.5 p.p. 410.

### Compliance Guidelines

- If the admission information and health assessment is one form (either one sheet of paper or multiple attached papers), the parent's signature and date may be on one page of the form.
  - Attached papers means they are in the same file, in a sleeve, behind the same tab in a notebook, etc.
- If the admission information and health assessment are on separate, unattached papers, the parent's signature and date must be on each form.

- If the provider uses electronic admission and health assessment forms, there should be a back-up plan for accessing the children’s information in case of a power failure or there is no internet service.

### Risk Level

Moderate

### Corrective Action for 1st Instance

Citation Warning

**(13) Before admitting any child younger than five years old into the child care program, including the provider's and employees' own children, the provider shall get the following documentation from the child's parent:**

- (a) current immunizations;
- (b) a medical schedule to receive required immunizations;
- (c) a legal exemption; or
- (d) a 90-day exemption for children who are homeless.

### Rationale/Explanation

Routine immunizations at the appropriate age are the best means of protecting children against vaccine-preventable diseases. Immunization is particularly important for children in child care because preschool-aged children have the highest age-specific incidence or are at high risk of complications from many vaccine-preventable diseases. CFOC 4th ed. Standards 7.2.0.1, 7.2.0.2 p.p. 317-318. Utah law requires age-appropriate immunizations for children attending child care facilities.

### Compliance Guidelines

A provider may admit a child into the child care program, but may not begin caring for the child before the requirements of this rule are met.

#### *Immunization Requirements*

For information about required immunizations for children enrolled in a child care program, refer to the “School & Early Childhood Program Requirements” section of the [Utah Department of Health Immunization Program](#).

#### *Medical Schedule*

According to Utah law (R396-100-7), a child care provider may conditionally enroll a child who is not appropriately immunized as long as the child has received at least one dose of each required vaccine and is on a catch-up schedule. If the immunization schedule falls more than one month behind, the provider must immediately exclude the child from the child care program.



### *Documentation*

According to Immunization Rule R396-100, providers must document children's immunizations by:

- Using the official Utah School Immunization Record (USIR or pink form);
- Accepting any immunization record provided by a licensed physician, registered nurse, or public health official and transferring the information to the USIR (pink form); or
- Keeping immunization records in the [Utah Statewide Immunization Information System \(USIIS\)](#).

If a child is exempt from being immunized, the provider must keep a copy of the child's official immunization exemption form (attached to the Utah School Immunization Record) and other required exemption documents in the child's file.

### *Exemption from Vaccination*

Parents must use an official immunization exemption form to exclude their child from being immunized and present the form to the child care provider. An exemption form can be obtained by completing an online education module (free of charge) and then printing the vaccination exemption form. It can also be obtained through an in-person consultation at the local health department (a fee may apply) where it will be signed.

For a medical exemption from vaccination, the child's parent must give the child care provider the completed immunization exemption form as well as a note signed by a licensed healthcare professional. The note must state that due to the physical condition of the child, administration of the vaccine would endanger the child's life or health.

For an exemption from vaccination due to a child's immunity to a disease (the child previously had the disease), the parent must submit a document signed by a healthcare provider to the child care provider as proof of immunity.

### *90-Day Exemption*

The McKinney-Vento Act allows 90 days from enrollment for families who are experiencing homelessness to provide the required immunization records. A written statement that the family is homeless is adequate documentation for this 90-day exemption. More information is available in Care About Chilcare's resource: [Homeless Children in Care](#).

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning

**(14) For each child younger than five years old, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the department.**

**Rationale/Explanation**

A representative of the department or the local health department may examine, audit, and verify immunization records maintained by any school or early childhood program.

**Risk Level**

Low

**Corrective Action for 1st Instance**

Warning

**(15) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the department.**

**Rationale/Explanation**

Immunizations are an important part of our children’s healthcare. The [Utah Immunization Rule for Students, Rule 396-100](#), requires that children attending school or childcare facilities be vaccinated against certain vaccine-preventable diseases. State law requires that unless for personal, medical, or religious exemptions, a student may not attend a public, private, or parochial kindergarten, elementary, or secondary school through grade 12, or early childhood programs, including nursery or preschools, licensed daycare centers, childcare facilities, family home care facilities, and Head Start Programs. State law also requires that schools and early childhood programs collect immunization information and report immunization data annually. Data is collected to determine which schools and childcare facilities are in compliance with state law and to determine how many children are adequately immunized (School & Early Childhood Program Immunization Reporting System 2020).

**Compliance Guidelines**

- The provider must submit the annual immunization report within a time frame specified by the Immunization Program (usually from October 1 through November 30 of each year).
- The Immunization Program tracks the immunization report status of each provider and sends this information to Child Care Licensing.

**Risk Level**

High

**Corrective Action for 1st Instance**

Citation and CMP Warning

**(16) The provider shall ensure that each child's information is kept confidential and not released without written parental permission except to the department.**

### **Rationale/Explanation**

Child care programs routinely handle confidential information about enrolled children, families, and staff. Confidentiality must be maintained to protect the child and family and is defined by law. Serving children and families involves significant facility responsibilities in obtaining, maintaining, and sharing confidential information. Sharing of confidential information should be selective and should be based on a need-to-know and on the parent's/guardian's authorization for disclosure of such information. CFOC 4th ed. Standard 9.4.1.3 p.p. 409. Prior informed, written consent of the parent/guardian is required for the release of records/information (verbal and written) to other service providers, including the process for secondary release of records. Consent forms should be in the native language of the parents/guardians, whenever possible, and communicated to them in their normal mode of communication. CFOC 4th ed. Standard 9.4.2.1 p.p.418.

### **Compliance Guidelines**

Confidential information includes personal identifiable information such as birthdates, addresses, and phone numbers, in addition to health information. To protect the confidentiality of child and family information, the provider should:

- Follow federal, state, and local laws, and train staff to follow these regulations.
- Only share information on a need-to-know basis with authorized individuals.
- Keep written information about the children in a safe place and out of the view of others.
- Refrain from discussing confidential information in the presence of others in the facility including children.

### **Corrective Action for 1st Instance**

The corrective action will be based on the severity of harm that was caused or likely to be caused as a result of a rule violation.