

**R381. Health, Child Care Center Licensing Committee.**  
**R381-70. Out of School Time Child Care Programs.**

**R381-70-1. Legal Authority and Purpose**

- (1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.
- (2) This rule establishes the foundational standards necessary to protect the health and safety of children in out-of-school-time programs and defines the general procedures and requirements to obtain and maintain a license.

**R381-70-2. Definitions**

- (1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.
- (2) "ASTM" means American Society for Testing and Materials.
- (3) "Background Finding" means information in a background screening that may result in a denial from Child Care Licensing.
- (4) "Background Screening Denial" means that an individual has failed the background screening and is prohibited from being involved with a program licensed by Child Care Licensing.
- (5) "Barrier" means an enclosing structure such as a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.
- (6) "Body Fluid" means blood, urine, feces, vomit, mucus, and/or saliva.
- (7) "Capacity" means the maximum number of children allowed in the program at any given time.
- (8) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.
- (9) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.
- (10) "Conditional Status" means that the provider is at risk of losing their license because compliance with licensing rules has not been maintained.
- (11) "Covered Individual" means any of the following individuals involved with the program:
  - (a) an owner;
  - (b) a director;
  - (c) a member of the governing body;
  - (d) an employee;
  - (f) a volunteer, except a parent of a child enrolled in the program; and
  - (h) anyone who has unsupervised contact with a child in the program.
- (12) "CPSC" means the Consumer Product Safety Commission.
- (13) "Department" means the Utah Department of Health.
- (14) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least 2 by 2 inches in size and having an angle less than 30 degrees from horizontal.
- (15) "Director" means a person who meets the director qualifications in this rule, and who assumes the day-to-day responsibilities for compliance with Child Care Licensing rules.
- (16) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.
- (17) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.
- (18) "Facility" means a program or the premises approved by the Department and licensed by Child Care Licensing.
- (19) "Group" means the children who are assigned to and supervised by one or more staff members.
- (20) "Group Size" means the number of children in a group.
- (21) "Guest" means an individual who is not a covered individual and is at the facility with the provider's permission.
- (22) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.
- (23) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney-Vento Act. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)
- (24) "Inaccessible" means out of reach of children by being:
  - (a) locked, such as in a locked room, cupboard, or drawer;
  - (b) secured with a safety device;
  - (c) behind a properly secured safety gate;
  - (d) located in a cupboard or on a shelf that is at least 48 inches above the floor; or
  - (e) in a bathroom, locked or secured with a safety device.
- (25) "Infectious Disease" means an illness that is capable of being spread from one person to another.
- (26) "Involved with Children" means to do any of the following at or for an out-of-school-time program licensed by Child Care Licensing:
  - (a) supervise or be assigned to work with children in the program;
  - (b) volunteer at an out-of-school-time program;
  - (c) own, operate, direct, or be employed at an out-of-school-time program;
  - (d) reside at a facility where an out-of-school-time program operates; or
  - (e) be present at a facility while an out-of-school-time program operates, except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the program's facility.
- (27) "License" means a license issued by the Department to provide out-of-school-time program services.
- (28) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.
- (29) "LIS Supported Finding" means background screening information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.
- (30) "McKinney-Vento Act" means a federal law that requires protections and services for children and youth who are homeless including those with disabilities. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

(31) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

(32) "Parent" means the parent or legal guardian of a child in the program.

(33) "Person" means an individual or a business entity.

(34) "Physical Abuse" means causing nonaccidental physical harm to a child.

(35) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.

(36) "Protective Barrier" means a structure such as bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.

(37) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

(38) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(39) "Qualifying Child" means:

(a) a child who is between 5 and 13 years old and is the child of a person other than the provider or a staff member, and

(b) a child with a disability who is between 5 and 18 years old and is the child of a person other than the provider or a staff member.

(40) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(41) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

(42) "School-Age Child" means a child age 5 through 12 years old.

(43) "Services" means the supervision and response to the needs of 5 or more qualifying children:

(a) in the absence of the children's parents,

(b) in a place other than the provider's home or the child's home,

(c) for less than 24 hours a day, and

(d) for direct or indirect compensation.

(44) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

(45) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).

(46) "Staff-to-Child Ratio" means the number of staff responsible for a specific number of children.

(47) "Stationary Play Equipment" means equipment such as a climber, slide, swing, merry-go-round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(48) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;

(b) hardware that forms a hook or leaves a gap or space between components such as a protruding S-hook; or

(c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.

(49) "Substitute" means an individual who temporarily assumes the responsibilities to supervise and work with the children when the assigned staff member is not present.

(50) "Unrelated Child" means a child who is not a "related child" as defined in R381-70-2(40).

(51) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a staff member who is at least 18 years old and has passed a Child Care Licensing background screening.

(52) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(53) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(54) "Working Days" means the days of the week the Department is open for business.

### **R381-70-3. License Required.**

(1) A person or persons shall be licensed as an out-of-school-time program if they provide services:

(a) in the absence of the child's parent;

(b) in a place other than the provider's home or the child's home;

(c) for 5 or more qualifying children;

(d) for each individual child for less than 24 hours per day;

(e) on an ongoing basis, on 3 or more days a week and for 30 or more days in a calendar year;

(f) either for 2 or more hours per day on days when school is in session for the child receiving services and 4 or more hours per day on days when school is not in session for the children receiving services, or the provider offers services for 4 or more hours per day on days when school is not in session for the children receiving services;

(g) to children who are at least 5 years of age; and

(h) for direct or indirect compensation.

(2) The Department may not license, nor is a license required for:

(a) a person who serves related children only, or

(b) a person who provides services on a sporadic basis only.

(3) According to Foster Care Services rule R501-12-4(8)(f), a provider may not be licensed to provide child services in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.

### **R381-70-4. License Application, Renewal, Changes, and Variances**

(1) An applicant for a new license shall submit to the Department:

(a) an online application;

(b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;

(d) a copy of a current local business license or a statement from the city that a business license is not required;

(e) a copy of the educational credentials of the person who will be the director as required in R381-70-7(4);

(f) a copy of a completed Department health and safety plan;

(g) CCL background screenings for all covered individuals as required in R381-70-8;

(h) a current copy of the Department's new provider training certificate of attendance; and

(i) all required fees, which are nonrefundable.

(2) The applicant shall pass a Department's inspection of the facility before a new license or a renewal is issued.

(3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) address numbers and/or letters shall be readable from the street;

(b) address numbers and/or letters shall be at least 4 inches in height and 1/2 inch thick;

(c) exit doors shall operate properly and shall be well maintained;

(d) obstructions in exits, aisles, corridors, and stairways shall be removed;

(e) items stored under exit stairs shall be removed;

(f) exit doors shall be unlocked from the inside during business hours;

(g) exits shall be clearly identified;

(h) there shall be unobstructed fire extinguishers that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;

(i) there shall be working smoke detectors that are properly installed on each level of the building; and

(j) boiler, mechanical, and electrical panel rooms shall not be used for storage.

(4) If the provider serves food and the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;

(b) there shall be a working thermometer in the refrigerator;

(c) there shall be a working stem thermometer available to check cook and hot hold temperatures;

(d) cooks shall have a current food handler's permit available on-site for review by the Department;

(e) cooks shall use hair restraints and wear clean outer clothing;

(f) according to Food Code 2-103-11, only necessary staff shall be present in the kitchen;

(g) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;

(h) chemicals shall be stored away from food and food service items;

(i) food shall be properly stored, kept to the proper temperature, and in good condition; and

(j) there shall be a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

(5) If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be licensed, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.

(6) The Department may deny an application for a license if, within the 5 years preceding the application date, the applicant held a license or a certificate that was:

(a) closed under an immediate closure;

(b) revoked;

(c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure; or

(d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or

(e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.

(7) Each license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the Department, or voluntarily closed by the provider.

(8) Within 30 to 90 days before a current license expires, the provider shall submit for renewal:

(a) an online renewal request,

(b) applicable renewal fees,

(c) any previous unpaid fees,

(d) a copy of a current business license,

(e) a copy of a current fire inspection report, and

(f) a copy of a current kitchen inspection report.

(9) A provider who fails to renew their license by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.

(10) The Department may not renew a license for a provider who is no longer providing services.

(11) The provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:

(a) a change of the facility's location, or

(b) a change that transfers 50 percent or more ownership or controlling interest to a new individual or entity.

(12) The provider shall submit a complete application to amend an existing license at least 30 days before any of the following changes:

(a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where services are provided;

(b) a change in the name of the program;

(c) a change in the regulation category of the program;

(d) a change in the name of the provider;

(e) an addition or loss of a director; or

(f) a change in ownership that does not require a new license.

(13) The Department may amend a license after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended license remains the same as the previous license.

(14) A license is not assignable or transferable and shall only be amended by the Department.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.

(16) The Department may:

(a) require additional information before acting on the variance request, and

(b) impose health and safety requirements as a condition of granting a variance.

(17) The provider shall comply with the existing rule until a variance is approved.

(18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.

(19) The Department may grant variances for up to 12 months.

(20) The Department may revoke a variance if:

(a) the provider is not meeting the intent of the rule as stated in their approved variance;

(b) the provider fails to comply with the conditions of the variance; or

(c) a change in statute, rule, or case law affects the basis for the variance.

#### **R381-70-5. Rule Violations and Penalties**

(1) The Department may place a program's license on a conditional status for the following causes:

(a) chronic, ongoing noncompliance with rules;

(b) unpaid fees; or

(c) a serious rule violation that places children's health or safety in immediate jeopardy.

(2) The Department shall establish the length of the conditional status and set the conditions that the provider shall satisfy to remove the conditional status.

(3) The Department may increase monitoring of the program that is on conditional status to verify compliance with rules.

(4) The Department may deny or revoke a license if the provider:

(a) fails to meet the conditions of a license on conditional status;

(b) violates the Child Care Licensing Act;

(c) provides false or misleading information to the Department;

(d) misrepresents information by intentionally altering a license or any other document issued by the Department;

(e) refuses to allow authorized representatives of the Department access to the facility to ensure compliance with rules;

(f) refuses to submit or make available to the Department any written documentation required to verify compliance with rules;

(g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or

(h) has committed an illegal act that would exclude a person from having a license.

(5) Within 10 working days of receipt of a revocation notice, the provider shall submit to the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the revocation.

(6) The Department may order the immediate closure of a facility if conditions create a clear and present danger to any child and may require immediate action to protect their health or safety.

(7) Upon receipt of an immediate closure notice, the provider shall give the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the immediate closure.

(8) If there is a severe injury or the death of a child who is participating in the program, the Department may order the provider to suspend services and/or prohibit new enrollments, pending a review by the Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.

(9) If a person is providing out-of-school-time services for more than 4 unrelated children without the appropriate license, the Department may:

(a) issue a cease and desist order, or

(b) allow the person to continue operation if:

(i) the person was unaware of the need for a license,

(ii) conditions do not create a clear and present danger to the children being served, and

(iii) the person agrees to apply for the appropriate license within 30 calendar days of notification by the Department.

(10) If a person providing out-of-school-time program services without the appropriate license agrees to apply for a license but does not submit an application and all required application documents within 30 days, the Department shall issue a cease and desist order.

(11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Section 26-39-601.

(12) Assessment of any civil money penalty does not prevent the Department from also taking action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license

(13) Assessment of any administrative civil money penalty under this section does not prevent court-ordered or other equitable remedies.

(14) The Department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background screenings, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within 30 days of being informed of the decision.

#### **R381-70-6. Administration and Children's Records**

(1) The provider shall:

(a) be at least 21 years of age,

(b) pass a CCL background screening, and

(c) complete the new provider training offered by the Department.

(2) If the owner is not a sole proprietor, the business entity shall submit to the Department the name(s) and contact information of the individual(s) who shall legally represent them and who shall comply with the requirements stated in R381-70-6(1).

(3) The provider shall not engage in or allow conduct that endangers children being served; or is contrary to the health, morals, welfare, and safety of the public.

(4) The provider shall have knowledge of and comply with all federal, state, and local laws, ordinances, and rules, and shall be responsible for the operation and management of an out-of-school-time program.

(5) The provider shall comply with licensing rules at all times when a qualifying child is present.

(6) The provider shall post the original license on the facility premises in a place readily visible and accessible to the public.

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

(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.

(9) The provider shall establish, follow, and ensure that all staff and volunteers follow a written health and safety plan that is:

(a) completed on the Department's required form;

(b) submitted to the Department for initial approval and any time changes are made to the plan;

(c) reviewed and updated as needed;

(d) signed and dated at least annually; and

(e) available for review by parents, staff, and the Department during business hours.

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

(11) The admission and health assessment form shall include 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 people authorized by the parent to pick up the child;

(e) 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;

(f) if available, the name, address, and phone number of an out-of-area emergency contact person for the child;

(g) current emergency medical treatment and emergency transportation releases with the parent's signature;

(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 needs of the child;

(l) current ongoing medications that the child may be taking; and

(m) any other special health instructions for the staff.

(12) The admission and health assessment form shall:

(a) be reviewed, updated, and signed or initialed by the parent at least annually; and

(b) kept on-site for review by the Department.

(13) Each child's information shall be kept confidential and shall not be released without written parental permission.

### **R381-70-7. Personnel and Training Requirements**

(1) The provider shall train and supervise staff and volunteers to ensure that they are qualified to:

(a) meet the needs of the children as required by rule, and

(b) be in compliance with all licensing rules.

(2) The provider shall ensure that the program has a qualified director as required by licensing rules.

(3) The director shall:

(a) be at least 21 years of age;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before beginning job duties;

(d) complete the new director training offered by the Department within 60 working days of assuming director duties;

(e) have knowledge of and follow all applicable laws and rules; and

(f) complete at least 10 hours of training each year, based on the facility's license date.

(4) New directors shall have one of the following educational credentials:

(a) any bachelor's or higher education degree, and at least 60 clock hours of approved Utah Early Childhood Career Ladder courses in child development, social/emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the Department;

(b) at least 12 college credit hours of child development courses, elementary education, or related field;

(c) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other equivalent credential as approved by the Department;

(d) at least a Level 9 from the Utah Early Childhood Career Ladder system; or

(e) a National Administrator Credential (NAC) and at least 60 clock hours of approved Utah Early Childhood Career Ladder courses in child development, social/emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the Department.

(5) The director shall be on duty at the facility for at least 50% of the time the program is open for business and have sufficient freedom from other responsibilities to manage the program and respond to emergencies.

(6) The director shall arrange for a designee who shall have authority to act on behalf of the director in the director's absence.

(7) The director designee shall:

(a) be at least 21 years of age;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before beginning job duties;

(d) have knowledge of and follow all applicable laws and rules; and

(e) complete at least 10 hours of training each year, based on the facility's license date.

- (8) The director or the director designee shall be present at the facility whenever the program is open for business.
- (9) Staff working with the children shall:
- be at least 16 years old;
  - pass a CCL background screening;
  - receive at least 2.5 hours of preservice training before working with children;
  - have knowledge of and follow all applicable laws and rules; and
  - complete at least 10 hours of training each year, based on the facility's license date.
- (10) Substitutes shall:
- be at least 18 years old;
  - pass a CCL background screening;
  - be capable of providing out-of-school-time program services, including supervising children, and handling emergencies in the staff member's absence;
  - receive at least 2.5 hours of preservice training before working with children; and
  - complete at least 1/2 hour of child related training for each month they work 40 hours or more.
- (11) All other staff such as drivers, cooks, and clerks shall:
- pass a CCL background screening,
  - receive at least 2.5 hours of preservice training before beginning job duties, and
  - have knowledge of and follow all applicable laws and rules.
- (12) Volunteers shall:
- pass a CCL background screening, and
  - not have unsupervised contact with any child in the program if the volunteer is younger than 18 years of age.
- (13) Guests:
- shall not have unsupervised contact with any child in the program,
  - shall wear a guest nametag, and
  - are not required to pass a CCL background screening.
- (14) Student interns who are registered and participating in a high school or college child care course:
- are not required to pass a CCL background screening,
  - shall not have unsupervised contact with any child in the program, and
  - shall wear a guest nametag.
- (15) Parents of children enrolled in the program:
- shall not have unsupervised contact with any child in the program except their own, and
  - do not need a CCL background screening unless involved with children in the program.
- (16) Household members who are:
- 12 to 17 years old shall pass a CCL background screening;
  - 18 years of age or older shall pass a CCL background screening that includes fingerprints; and
  - younger than 18 years of age shall not have unsupervised contact with any child in the program including during offsite activities and transportation.
- (17) Individuals who provide IEP or IFSP services such as physical, occupational, or speech therapists:
- are not required to have a CCL background screening as long as the child's parent has given permission for services to take place at the facility; and
  - shall provide proper identification before having access to the facility or a child at the facility.
- (18) Members from law enforcement or from Child Protective Services:
- are not required to have a CCL background screening, and
  - shall provide proper identification before having access to the facility or a child at the facility.
- (19) Preservice training shall include the following:
- job description and duties;
  - current Department rule sections R381-70-7 through 21;
  - the Department-approved health and safety plan that includes preparing for and responding to emergencies;
  - prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
  - recognizing the signs of homelessness and available assistance;
  - a review of the information in each child's health assessment in the staff member's assigned group; and
  - an introduction and orientation to the children being served.
- (20) Documentation of each individual's preservice training shall be kept on-site for review by the Department and include the following:
- training topics,
  - date of the training, and
  - total hours or minutes of training.
- (21) Annual training shall include the following topics:
- current Department rule sections R381-70-7 through 21;
  - the Department-approved health and safety plan that includes preparing for and responding to emergencies;
  - the prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
  - principles of child growth and development, including brain development;
  - positive guidance and interactions with children; and
  - recognizing the signs of homelessness and available assistance.
- (22) At least half of the annual training hours shall be face-to-face instruction.
- (23) Individuals who are required to receive annual training and who begin employment partway through the facility's license year shall complete a proportionate number of training hours including the face-to-face instruction.
- (24) Documentation of each individual's annual training shall be kept on-site for review by the Department and include the following:
- training topic,
  - date of the training,

- (c) whether the training was face-to-face or non-face-to-face instruction,
- (d) name of the person or organization that presented the training, and
- (e) total hours or minutes of training.

(25) Whenever there are children at the facility, there shall be at least one staff member present who can demonstrate English literacy skills needed to work with the children and respond to emergencies.

(26) At least one staff member with a current Red Cross, American Heart Association, or equivalent first aid and infant/child CPR certification shall be present when children are receiving services:

- (a) at the facility,
- (b) in each vehicle transporting children, and
- (c) at each offsite activity.

(27) CPR certification shall include hands-on testing.

(28) The following records for each covered individual shall be kept on-site for review by the Department:

- (a) the date of initial employment or association with the program;
- (b) a copy of the current background screening card issued by the Department;
- (c) a current first aid and CPR certification, if required in rule; and
- (d) a six-week record of the times worked each day.

### **R381-70-8. Background Screenings.**

(1) The provider shall ensure that an online CCL background screening form is submitted within 10 working days from when:

- (a) a new covered individual becomes involved with the program,
- (b) a new covered individual age 12 years or older begins residing in the facility, and
- (c) a child who resides in the facility turns 12 years old.

(2) Unless an exception is granted in rule, the provider shall ensure that a CCL background screening for all individuals age 18 or older includes fingerprints and fingerprints fees.

(3) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

(4) If fingerprints are submitted through LiveScan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.

(5) Fingerprints are not required if:

(a) the covered individual has resided in Utah continuously for the past 5 years, or since the individual's 18th birthday and will only be involved with a program that was licensed or certified prior to 1 July 2013; or

(b) the covered individual has previously submitted fingerprints to the Department under this section for a national criminal history record check and has resided in Utah continuously since that time.

(6) Background screenings are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background screening card.

(7) At least 2 weeks before the end of the month that is written on a covered individual's background screening card, the provider shall:

- (a) have the individual submit an online CCL background screening form,
- (b) authorize the individual's background screening form, and
- (c) pay all required fees.

(8) Regardless of any exception in rule, if an in-state criminal background screening indicates that a covered individual age 18 or older has a background finding, the Department may require that individual to submit fingerprints and fees in order for the Department to conduct a national criminal background screening for that individual.

(9) The following background findings may deny a covered individual from being involved with children:

- (a) LIS supported findings,
- (b) the individual's name appears on the Utah or national sex offender registry,
- (c) any felony convictions,
- (d) any Misdemeanor A convictions, or
- (e) Misdemeanor B and C convictions for the reasons listed in R381-70-8(10).

(10) The following convictions, regardless of severity, may result in a background screening denial:

- (a) unlawful sale or furnishing alcohol to minors;
- (b) sexual enticing of a minor;
- (c) cruelty to animals, including dogfighting;
- (d) bestiality;
- (e) lewdness, including lewdness involving a child;
- (f) voyeurism;
- (g) providing dangerous weapons to a minor;
- (h) a parent providing a firearm to a violent minor;
- (i) a parent knowing of a minor's possession of a dangerous weapon;
- (j) sales of firearms to juveniles;
- (k) pornographic material or performance;
- (l) sexual solicitation;
- (m) prostitution and related crimes;
- (n) contributing to the delinquency of a minor;
- (o) any crime against a person;
- (p) a sexual exploitation act;
- (q) leaving a child unattended in a vehicle; and
- (r) driving under the influence (DUI) while a child is present in the vehicle.

(11) A covered individual with a Class A misdemeanor background finding not listed in R381-70-8(10) may be involved with children

when:

- (a) 10 or more years have passed since the Class A misdemeanor offense, and

(b) there is no other conviction for the individual in the past 10 years.

(12) A covered individual with a Class A misdemeanor background finding not listed in R381-70-8(10) may be involved with children for up to 6 months if:

(a) 5 to 9 years have passed since the offense,

(b) there is no other conviction since the Class A misdemeanor offense,

(c) the individual provides to the Department documentation of an active petition for expungement, and

(d) the provider ensures that the individual does not have unsupervised contact with any child in the program.

(13) If a petition for expungement is denied, the covered individual shall no longer be involved with children.

(14) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred 10 or more years before the CCL background screening was conducted.

(15) The Department may rely on the criminal background screening findings as conclusive evidence of the arrest warrant, arrest, charge, or conviction; and the Department may revoke, suspend, or deny a license or employment based on that evidence.

(16) If the provider has a background screening denial, the Department may suspend or deny their license until the reason for the denial is resolved.

(17) If a covered individual has a background screening denial, the Department may prohibit that individual from being employed by the program or residing at the facility until the reason for the denial is resolved.

(18) If a covered individual is denied a license or employment based upon the criminal background screening and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

(19) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS):

(a) the individual cannot appeal the supported finding to the Department of Health; and

(b) the covered individual may appeal the finding to the Department of Human Services and follow the process established by the Department of Human Services.

(20) Within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding, the provider and the covered individual shall notify the Department. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the license.

(21) The Executive Director of the Department of Health may overturn a background screening denial under the following conditions:

(a) the background finding is not a felony, and

(b) the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

#### **R381-70-9. Facility.**

(1) There shall be at least 35 square feet of indoor space for each child receiving services, including the provider's and employees' children.

(2) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children,

(b) for the children, or

(c) to store classroom materials.

(3) The following areas are not included when measuring indoor space for children's use:

(a) bathrooms,

(b) closets and staff lockers,

(c) hallways,

(d) lobbies and entryways,

(e) kitchens, and

(f) staff offices.

(4) The maximum allowed capacity for a facility may be limited by local ordinances.

(5) The number of children being served at any given time shall not exceed the capacity identified on the license.

(6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.

(7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.

(8) Windows and glass doors within 36 inches from the floor or ground shall be made of safety or tempered glass, or have a protective guard.

(9) All rooms and areas that are used by children shall have adequate light intensity for the safety of the children and the type of activity being conducted.

(10) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(11) There shall be a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(12) Bathrooms that provide privacy shall be available for use by the children.

(13) There shall be at least 2 working toilets and 2 working handwashing sinks accessible to the children.

(14) If there are more than 50 children in attendance, there shall be 1 additional working toilet and 1 additional working handwashing sink for each additional group of 1 to 25 children.

(15) Hand sanitizer shall be available to children if there is not a handwashing sink in the room.

(16) There shall be an outdoor area that is safely accessible to children.

(17) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.

(18) The total square footage of the outdoor area shall accommodate at least one-third of the enrolled children at one time or shall be at least 1600 square feet.

(19) The outdoor area shall be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high.

(20) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.

(21) If there is a swimming pool on the premises that is not emptied after each use:

(a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and



(b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or covered with an approved enclosure that meets the ASTM F1346 standard.

(22) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

- (a) ceilings, walls, and floor coverings;
- (b) lighting, bathroom, and other fixtures;
- (c) draperies, blinds, and other window coverings;
- (d) indoor and outdoor play equipment;
- (e) furniture, toys, and materials accessible to the children; and
- (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.

(23) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.

(24) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with all rules, except when all of the following conditions are met:

- (a) there is a separate entrance for the program;
- (b) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (c) there is no shared access to the outdoor area used for the program, or a qualified staff member is present when children are using a shared outdoor area of the facility.

#### **R381-70-10. Ratios and Group Size.**

- (1) The provider shall maintain the staff-to-child ratio of at least one staff member for every 20 children.
- (2) The provider shall not exceed the maximum group size of 40 children per group.
- (3) There shall be at least 2 staff members present when there are more than 8 children on the premises.
- (4) The provider's or an employee's child is not counted in the staff-to-child ratio when the parent of the child is working at the facility, but the child is counted in the group size.
- (5) Staff who are 16 or 17 years old may be included in the staff-to-child ratio, but shall not have unsupervised contact with any child being served.
- (6) Volunteers may be included in the staff-to-child ratio if they:
  - (a) are at least 16 years old,
  - (b) receive at least 2.5 hours of preservice training before counting in the staff-to-child ratio, and
  - (c) complete at least 1 hour of child related training for each month they volunteer 40 hours or more.
- (7) Student interns who are registered in a high school or college child care course may count in the staff-to-child ratio when requirements in R381-70-7(14)(a)-(c) are met.
- (8) Guests shall not count in staff-to-child ratios.

#### **R381-70-11. Child Supervision and Security.**

- (1) The provider shall ensure that staff provide and maintain active supervision of each child at all times.
- (2) Active supervision shall include:
  - (a) staff shall be able to hear the children and be close enough to intervene,
  - (b) staff shall know the number of children in their assigned group at all times;
  - (c) staff's attention shall be focused on the children and not on staff's personal interests;
  - (d) staff shall be aware of the entire group of children even when interacting with a smaller group or an individual child; and
  - (e) staff shall position themselves so all children in their assigned group are actively supervised.
- (3) Whenever a child is participating in program services, the child's parent shall have access to their child and the areas used to serve their child.
- (4) To maintain security and supervision of children, the provider shall ensure that:
  - (a) each child is signed in and out;
  - (b) only parents or persons with written authorization from the parent may sign out a child;
  - (c) photo identification is required if the individual signing the child in or out is unknown to the provider;
  - (d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;
  - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
  - (f) there is written permission from their parents if children sign themselves in and out.
- (5) In an emergency, program staff shall accept the parent's verbal authorization to release a child when the staff can confirm the identity of:
  - (a) the person giving verbal authorization, and
  - (b) the person picking up the child.
- (6) A six-week record of each child's daily attendance, including sign-in and sign-out records, shall be kept on-site for review by the Department.

#### **R381-70-12. Child Guidance and Interaction.**

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in the program.
- (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.
- (3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (4) Staff shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.
- (5) Interactions with the children shall not include any of the following:
  - (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;

- (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
  - (c) shouting at children;
  - (d) any form of emotional abuse;
  - (e) forcing or withholding food, rest, or toileting; or
  - (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.
- (6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.

**R381-70-13. Child Safety and Injury Prevention.**

- (1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.
- (2) Harmful objects and hazards, such as the following, shall be inaccessible to children:
- (a) poisonous and harmful plants;
  - (b) razors and other similar blades;
  - (c) strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck;
  - (d) tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways;
  - (e) objects blocking the exits; and
  - (f) standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter.
- (3) Toxic or hazardous chemicals such as insecticides, lawn products, and flammable materials shall be:
- (a) inaccessible to children,
  - (b) used according to manufacturer instructions, and
  - (c) stored in containers labeled with their contents.
- (4) Items and substances that could burn a child or start a fire shall be inaccessible, such as:
- (a) matches or cigarette lighters;
  - (b) open flames;
  - (c) hot wax or other substances; and
  - (d) when in use, portable space heaters, wood burning stoves, and fireplaces of all types.
- (5) Children shall be protected from items that cause electrical shock such as live electrical wires.
- (6) Unless used and stored in compliance with the Utah Concealed Weapons Act or as otherwise allowed by law, firearms such as guns, muzzles loaders, rifles, shotguns, hand guns, pistols, and automatic guns shall:
- (a) be locked in a cabinet or area with a key, combination lock, or fingerprint lock; and
  - (b) stored unloaded and separate from ammunition.
- (7) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.
- (8) Alcohol, illegal substances, and sexually explicit material shall be inaccessible, and shall not be used on the premises, during offsite activities, or in program vehicles any time a child is present.
- (9) An outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain shall be available to each child whenever the outside temperature is 75 degrees or higher.
- (10) Areas accessible to children shall be free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.
- (11) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.
- (12) In compliance with the Utah Indoor Clean Air Act, tobacco, e-cigarettes, e-juice, e-liquids, and similar products shall be inaccessible and not used:
- (a) in the facility or any other building where a child is being served,
  - (b) in any vehicle that is transporting a child in the program,
  - (c) within 25 feet of any entrance to the facility or other building occupied by a child being served, or
  - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child being served.

**R381-70-14. Emergency Preparedness and Response.**

- (1) The provider shall post the facility's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the facility or in an area clearly visible to anyone needing the information.
- (2) The provider shall keep first-aid supplies in the facility, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall conduct fire evacuation drills monthly. Drills shall include a complete exit of all children, staff, and volunteers from the building.
- (4) The provider shall document each fire drill, including:
- (a) the date and time of the drill,
  - (b) the number of children participating,
  - (c) the name of the person supervising the drill,
  - (d) the total time to complete the evacuation, and
  - (e) any problems encountered.
- (5) The provider shall conduct drills for disasters other than fires at least once every 6 months.
- (6) The provider shall document each disaster drill, including:
- (a) the type of disaster, such as earthquake, flood, prolonged power or water outage, or tornado;
  - (b) the date and time of the drill;
  - (c) the number of children participating;
  - (d) the name of the person supervising the drill; and
  - (e) any problems encountered.
- (7) The provider shall vary the days and times on which fire and other disaster drills are held.
- (8) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the Department.
- (9) In case of an emergency or disaster, the provider and employees shall follow procedures as outlined in the program's health and safety plan.

- (10) The provider shall give parents a written report of every incident, accident, or injury involving their child:
  - (a) The staff involved, the program director, and the person picking up the child shall sign the report on the day of occurrence; or
  - (b) If children sign themselves out of the program, a copy of the report shall be sent to the parent on the day following the occurrence.
- (11) If a child is injured and the injury appears serious but not life-threatening, the child's parent shall be contacted immediately.
- (12) In the case of a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb:
  - (a) emergency personnel shall be called immediately;
  - (b) after emergency personnel are called, then the parent shall be contacted; and
  - (c) if the parent cannot be reached, staff shall try to contact the child's emergency contact person.
- (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:
  - (a) submit a completed accident report form to the Department within the next business day of the incident; or
  - (b) contact the Department within the next business day and submit a completed accident report form within 5 business days of the incident.
- (14) The provider shall keep a six-week record of every incident, accident, and injury report on-site for review by the Department.

**R381-70-15. Health and Infection Control.**

- (1) The building, furnishings, equipment, and outdoor area shall be kept clean and sanitary including:
  - (a) ceilings, walls, and flooring shall be clean and free of spills, dirt, and grime;
  - (b) areas and equipment used for the storage, preparation, and service of food shall be clean and sanitary;
  - (c) surfaces used by children shall be free of rotting food or a build-up of food;
  - (d) the building and grounds shall be free of a build-up of litter, trash, and garbage; and
  - (e) the facility shall be free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) Fabric toys and items such as stuffed animals, cloth dolls, pillows, and dress-up clothes shall be machine washable and washed weekly, and as needed.
- (4) Water play tables or tubs shall be cleaned and sanitized daily, if used by the children.
- (5) Bathroom surfaces including toilets, sinks, faucets, and counters shall be cleaned and sanitized each day.
- (6) Toilet paper shall be accessible to children and kept in a dispenser.
- (7) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that the procedures are followed.
- (8) Staff and volunteers shall wash their hands thoroughly with liquid soap and running water at required times including:
  - (a) before handling or preparing food,
  - (b) before and after eating meals and snacks,
  - (c) after using the toilet or helping a child use the toilet,
  - (d) after contact with a body fluid,
  - (e) when coming in from outdoors, and
  - (f) after cleaning up or taking out garbage.
- (9) Staff shall teach children how to wash their hands thoroughly and shall oversee handwashing whenever possible.
- (10) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water at required times including:
  - (a) before and after eating meals and snacks,
  - (b) after using the toilet,
  - (c) after contact with a body fluid,
  - (d) before using a water play table or tub, and
  - (e) when coming in from outdoors.
- (11) Only single-use towels from a covered dispenser or an electric hand dryer may be used to dry hands.
- (12) Personal hygiene items, such as toothbrushes, combs, and hair accessories, shall not be shared and shall be stored so they do not touch each other, or they shall be sanitized between each use.
- (13) A child's clothing shall be promptly changed if the child has a toileting accident.
- (14) Children's clothing that is wet or soiled from a body fluid shall:
  - (a) not be rinsed or washed at the facility,
  - (b) be placed in a leakproof container that is labeled with the child's name, and
  - (c) be returned to the parent.
- (15) Staff shall use a portable body fluid cleanup kit for cleaning up body fluid spills. The kit shall be:
  - (a) in a place easily accessed by staff, and
  - (b) restocked as needed.
- (16) Staff shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit. Except for toileting accidents, staff shall:
  - (a) wear waterproof gloves;
  - (b) clean the surface using a detergent solution;
  - (c) rinse the surface with clean water;
  - (d) sanitize the surface;
  - (e) throw away in a leakproof plastic bag the disposable materials, such as paper towels, that were used to clean up the body fluid;
  - (f) wash and sanitize any nondisposable materials used to clean up the body fluid, such as cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
  - (g) wash their hands after cleaning up the body fluid.
- (17) A child who is ill with an infectious disease may not be present at the facility except when the child shows signs of illness after arriving at the program.
- (18) When a child becomes ill while at the program:
  - (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact to immediately pick up the child; and

(b) if the child is ill with an infectious disease, the child shall be made comfortable in a safe, supervised area that is separated from the other children until the parent arrives.

(19) When any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.

(20) The provider shall post a notice at the facility when any staff member or child has an infectious disease or parasite. The notice shall:

- (a) not disclose any personal identifiable information,
- (b) be posted in a conspicuous place where it can be seen by all parents,
- (c) be posted and dated on the same day that the disease or parasite is discovered, and
- (d) remain posted for at least 5 days.

**R381-70-16. Food and Nutrition.**

(1) On days when services are provided for 3 or more hours, the provider shall ensure that each child is offered a meal or snack at least once every 3 hours.

(2) When food for children's meals and/or snacks is supplied by the provider:

(a) the meal service shall meet local health department food service regulations;  
(b) the foods that are served shall meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;

(c) the provider shall use the CACFP menus, the standard Department-approved menus, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years;

(d) the current week's menu shall be posted for review by parents and the Department; and

(e) programs that are not participating or in good standing with the CACFP shall keep a six-week record of foods served at each meal and snack.

(3) The person who serves food to children shall:

(a) be aware of the children in their assigned group who have food allergies or sensitivities, and

(b) ensure that the children are not served the food or drink they are allergic or sensitive to.

(4) Children's food shall be served on dishes, napkins, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.

(5) Food and drink brought in by parents for their child's use shall be:

- (a) labeled with the child's name,
- (b) refrigerated if needed, and
- (c) consumed only by that child.

**R381-70-17. Medications.**

(1) Nonrefrigerated medications shall be stored at least 48 inches above the floor or shall be locked.

(2) Refrigerated medications shall be stored at least 36 inches above the floor or shall be locked, and if liquid, they shall be stored in a separate leakproof container.

(3) All over-the-counter and prescription medications supplied by parents shall:

(a) be labeled with the child's full name,

(b) be kept in the original or pharmacy container,

(c) have the original label, and

(d) have child-safety caps.

(4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.

(5) The medication permission form shall include:

(a) the name of the child,

(b) the name of the medication,

(c) written instructions for administration, and

(d) the parent signature and the date signed.

(6) The instructions for administering the medication shall include:

(a) the dosage,

(b) how the medication will be given,

(c) the times and dates to administer the medication, and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:

(a) prior written consent; or

(b) verbal consent if the date and time of the consent is documented, and is signed by the parent upon picking up their child.

(8) The staff member administering the medication shall:

(a) wash their hands,

(b) check the medication label to confirm the child's name if the parent supplied the medication,

(c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and

(d) administer the medication.

(9) Immediately after administering a medication, the staff member giving the medication shall record the following information:

(a) the date, time, and dosage of the medication given;

(b) any errors in administration or adverse reactions; and

(c) their signature or initials.

(10) The provider shall report a child's adverse reaction to a medication or error in administration to the parent immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.

(11) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication before the time the medication needs to be given.

(12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by the Department.

### **R381-70-18. Activities.**

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) Daily activities shall include outdoor play as weather and air quality allow.
- (3) Physical development activities shall include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.
- (4) The provider shall post a daily activity schedule that includes:
  - (a) activities that support children's healthy development; and
  - (b) the times activities occur including at least meal, snack, and outdoor play times.
- (5) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.
- (6) Except for occasional special events, children's screen time on media such as television, cell phones, tablets, and computers shall be part of a media plan that addresses the needs of children.
- (7) If swimming activities are offered:
  - (a) the provider shall obtain parental permission before each child uses the pool;
  - (b) staff shall stay at the pool supervising whenever a child is in the pool or has access to the pool;
  - (c) if the pool is over 4 feet deep, there shall be a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and
  - (d) lifeguards and pool personnel shall not count toward the staff-to-child ratio.
- (8) If offsite activities are offered:
  - (a) the provider shall obtain written parental consent before each activity;
  - (b) the required staff-to-child ratio and supervision shall be maintained during the entire activity;
  - (c) a first aid kit shall be available;
  - (d) children shall wear or carry with them the name and phone number of the program;
  - (e) children's names shall not be used on nametags, t-shirts, or in other visible ways; and
  - (f) there shall be a way for staff and children to wash their hands with soap and water, or if there is no source of running water, staff and children shall clean their hands with wet wipes and hand sanitizer.
- (9) On every offsite activity, staff shall take the written emergency information and releases for each child in the group. The information shall include:
  - (a) the child's name,
  - (b) the parent's name and phone number,
  - (c) the name and phone number of a person to notify in case of an emergency if the parent cannot be contacted,
  - (d) the names of people authorized by the parents to pick up the child, and
  - (e) current emergency medical treatment and emergency medical transportation releases.

### **R381-70-19. Play Equipment.**

- (1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.
- (2) With the exception of swings, stationary play equipment with any designated play surface higher than 30 inches shall have at least a 6-foot use zone measured from the outermost edge of the equipment.
- (3) The use zone in the front and rear of a single-axis swing shall extend at least twice the distance of the swing pivot point to the ground.
- (4) The use zone for the sides of a single-axis swing shall extend at least 6 feet from the outermost edge of the swing.
- (5) The use zone for a multi-axis swing, such as a tire swing, shall extend at least the measurement of the suspending rope or chain plus 6 feet.
- (6) The use zone for a merry-go-round shall extend at least 6 feet in all directions from its outermost edge.
- (7) The use zone for a spring rocker shall extend at least 6 feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches.
- (8) The following use zones shall not overlap the use zone of any other piece of play equipment:
  - (a) the use zone in front of a slide,
  - (b) the use zone in the front and rear of any single-axis swing,
  - (c) the use zone of a multi-axis swing, and
  - (d) the use zone of a merry-go-round if the platform diameter measures 20 inches or more.
- (10) Unless prohibited in R381-70-19(8), the use zones of play equipment may overlap when:
  - (a) there is at least 6 feet between the pieces of equipment if the designated play surface is 30 inches or lower, or (b) there is at least 9 feet between the pieces of equipment if the designated play surface is higher than 30 inches.
- (11) Stationary play equipment without moving parts children sit or stand on shall not be placed on concrete, asphalt, dirt, a bare floor, or any other hard surface, but may be placed on grass or other cushioning, if the highest designated play surface measures between 6 to 30 inches.
- (12) Protective cushioning shall cover the entire surface of each required use zone and its depth or thickness shall be determined by the highest designated play surface of the equipment.
- (13) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1.
  - (a) the provider shall ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 1 if compacted; and
  - (b) if the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1

Depths of Protective Cushioning Required  
for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires
4' high or less	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 7'	9"	not allowed	9"	not allowed	6"
Over 7' up to 8'	9"	not allowed	9"	not allowed	6"
Over 8' up to 9'	9"	not allowed	9"	not allowed	6"
Over 9' up to 10'	not allowed	not allowed	9"	not allowed	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	6"

(14) If shredded wood products are used as protective cushioning:

- (a) the provider shall keep on-site for review by the Department documentation from the manufacturer that the wood product meets ASTM Specification F1292,
- (b) there shall be adequate drainage under the material, and
- (c) the depth of the shredded wood shall meet the CPSC guidelines in Table 2.

TABLE 2  
Depths of Protective Cushioning Required  
for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers	Wood Chips	Double Shredded Bark Mulch
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	9"	9"	9"
Over 8' up to 9'	9"	9"	9"
Over 9' up to 10'	9"	9"	9"
Over 10' up to 11'	9"	9"	9"
Over 11'	9"	not allowed	not allowed

(15) If a unitary cushioning is used, the provider shall ensure that the material meets the standard established in ASTM Specification F1292. The provider shall maintain on-site for review by the Department documentation from the manufacturer that the material meets these specifications.

(16) If a unitary cushioning is used, the provider shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(17) A play equipment platform that is more than 48 inches above the floor or ground shall have a protective barrier that is at least 38 inches high.

(18) There shall be no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(19) Stationary play equipment shall be stable and securely anchored.

(20) There shall be no trampolines on the premises that are accessible to any child in the program.

(21) There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.

(22) There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.

(23) There shall be no strangulation hazards on or within the use zone of any piece of stationary play equipment.

(24) There shall be no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

(25) There shall be no tripping hazards such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

**R381-70-20. Transportation.**

If transportation services are offered:

(1) For each child being transported, the provider shall have a transportation permission form:

- (a) signed by the parent, and
- (b) on-site for review by the Department.

(2) Each vehicle used for transporting children shall:

- (a) be enclosed with a roof or top,
- (b) be equipped with safety restraints,
- (c) have a current vehicle registration,
- (d) be maintained in a safe and clean condition,
- (e) contain a first aid kit, and
- (f) contain a body fluid clean up kit.

(3) The safety restraints in each vehicle that transports children shall:

- (a) be appropriate for the age and size of each child who is transported, as required by Utah law;

- (b) be properly installed; and
- (c) be in safe condition and working order.
- (4) The driver of each vehicle who is transporting children shall:
  - (a) be at least 18 years old;
  - (b) have and carry with them a current, valid driver's license for the type of vehicle being driven;
  - (c) have with them the written emergency contact information for each child being transported;
  - (d) ensure that each child being transported is in an individual safety restraint that is used according to Utah law;
  - (e) ensure that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
  - (f) never leave a child in the vehicle unattended by an adult;
  - (g) ensure that children stay seated while the vehicle is moving;
  - (h) never leave the keys in the ignition when not in the driver's seat; and
  - (i) ensure that the vehicle is locked during transport.
- (5) When the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:
  - (a) each child being transported has a completed transportation permission form signed by their parent,
  - (b) a staff member goes with the children and actively supervises them,
  - (c) the staff-to-child ratio is maintained, and
  - (d) staff take each child's written emergency contact information and releases with them.

**R381-70-21. Animals.**

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) There shall be no animal on the premises that:
  - (a) is naturally aggressive;
  - (b) has a history of dangerous, attacking, or aggressive behavior; or
  - (c) has a history of biting even one person.
- (3) Animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.
- (4) There shall be no animal or animal equipment in food preparation or eating areas.
- (5) If children help in the cleaning of animals or animal equipment, the children shall wash their hands immediately after cleaning the animal or equipment.
- (6) Children and staff shall wash their hands immediately after playing with or touching animals, including reptiles and amphibians.
- (7) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.
- (8) The provider shall keep current animal vaccination records on-site for review by the Department.

**KEY: child care facilities, child care, child care centers, out of school time child care programs**

**Date of Enactment or Last Substantive Amendment: December 28, 2017**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)**