

## CHILDCARE LICENSING RULE UPDATES (presented 3/14/24)

The main objective for the rule amendments is to **remove enforcement-related content that now exists in the Division-wide rule R380-600** and applies not only to Child Care Licensing, but Human Services and Health Care Facility Licensing entities as well.

\*Key: underlined text is a new addition; bracketed and stricken text is marked for deletion\*

The following subsections are impacted:

- Sec (2) Definitions.
  - Stricken definitions exist in [R380-600](#).
  - One new definition in each rule “OBP” means the Office of Background Processing in the Division of Licensing and Background Checks under the Department of Health and Human Services.
- Sec (4) all stricken content is represented in R380-600. Remaining content only pertains to Fire and Health Inspections (not represented in R380-600) so the section is now titled as follows: [~~License Application, Renewal, Changes, and Variances.~~]Fire and Other Health Inspections.
- Sec (5) all stricken content is represented in R380-600. Remaining content only pertains to Immediate Closures (not yet represented in R380-600) so the section is now titled as follows: [~~Rule Noncompliance, Penalties, and Agency Action Reviews.~~]Immediate Closure this content will eventually be eliminated completely once it is represented in R380-600.

The second objective for the rule amendments is to ensure rules **reflect the changes required by HB153 that goes into effect on May 1, 2024**

- makes optional the requirement to obtain a certificate from DHHS to provide residential child care;
  - **R430-50-3. Residential Certificate**~~[Required]~~.  
(1) In accordance with Section 26B-2-404, [A]an individual [shall]may become certified as a residential child care provider if they provide care:
- Increases the number of children for unlicensed child care to 8 children;
  - **R430-8-3(1)** In accordance with Section 26B-2-404, [A]an individual [shall]may become certified as a residential child care provider if they provide care:

- (a) in the provider's home; (b) in the absence of the child's parent;
- (c) for ~~seven or~~ eight or fewer ~~[unrelated]~~ qualifying children;

- limits the number of children under three years old for which a residential child care provider operating without a license or certificate may provide care (two children);
  - R430-8-3 title renamed and added new subsection 2.

**R430-8-3. License, ~~or~~ Certificate, or Exemption, ~~and Background Check~~ Not Required.**

~~[(4)]~~ The ~~following~~ types of care listed in this section do not require a child care license, certificate, or exemption from the office. ~~[-, or the submission of background check documents to the department:]~~

~~[(a)]~~ [e] Care provided on no more than two days during any calendar week;

~~[- (b) care provided in the home of the provider for less than four hours a day, or for fewer than seven unrelated children in the home at one time;]~~

(2) Residential child care providers caring for eight or less qualifying children at a time, in the provider's home for fewer than four hours a day;

- requires a residential child care provider operating without a license or a certificate to submit to criminal history check requirements;
  - R430-8-5 Background Check Requirements Subsec (2) modified to include: (2) Except as outlined in Subsection R430-8-5(1), the requirements of this subsection apply to:
    - ~~[each facility listed in Section R430-8-4]~~
    - (a) each facility listed in Section R430-8-4;
    - (b) except for sporadic care, any unlicensed residential child care provider caring:
      - (i) for eight or less qualifying children at one time or for up to ten qualifying children including their own;
      - (ii) in the provider's home for four or more hours a day; and
      - (iii) for more than two days a week.
    - (3) In addition to the requirements of this subsection, each provider as described in Subsection R430-8-5(2)(b) shall:
      - (a) register with the office to facilitate the OBP background check process; and
      - (b) care for no more than two children under the age of three.
- authorizes DHHS to make rules regarding submission to criminal history checks for unlicensed providers.
  - The OBP will be making the rules to govern this process within 180 days of May 1 to comply with statutorily required rulemaking time frames.

The third objective for the rule amendments is to **replace all references to "department"** and indicate the appropriate office under the Division of Licensing and Background Checks (DLBC) you will see this content:

- ~~[department]~~ office when the rule applies to the Office of Licensing under the DLBC (defined in R380-600)

- ~~[department]OBP~~, or this ~~[CCL]OBP~~ when the rule applies to background check requirements under the Office of Background Processing (OBP is now defined within each rule). Background check content will eventually be eliminated and represented in an Office of Background Processing rule (R400).
- And in Sec 9 Facility and Sec (21) Transportation replacements were made with this ~~[department]provider~~ because it better represents the requirement of the rule.

The third objective was a bit of **cleanup**.

- “involved with child care” was aligned wherever the following phrases were used: before ~~[beginning job duties]becoming involved with child care~~; OR before ~~[earing for children]becoming involved with childcare~~ because the term “becoming involved with childcare” is defined and the others are not. Here is the definition for convenience: "Involved with Child Care" means to do any of the following at or for a child care program: (a) care for or supervise children; (b) volunteer; (c) own, operate, direct; (d) reside; (e) count in the caregiver-to-child ratio; or (f) have unsupervised contact with a child in care.
- Similar one-off cleanups were made to replace a term with a defined term (ex: subsec 8(13) ~~[supported] LIS supported~~ finding because “LIS supported finding” is defined.
- Sec (12) Child Guidance and Interaction. Changes emotional abuse to emotional mistreatment because the definition in R380-600 is “emotional mistreatment” and the definition of abuse in 380-600 encompasses emotional abuse.
  - "Abuse" means the same as the term is defined in Sections 26B-6-201, 80-1-102, and R512-80-2.
  - "Emotional Mistreatment" means verbal or non-verbal conduct that results in a client suffering significant mental anguish, emotional distress, fear, humiliation, or degradation. Emotional mistreatment includes demeaning, threatening, terrorizing, alienating, isolating, intimidating, or harassing a client.
- Sec (19) Tables 2 and 3 cleans up inconsistent capitalization

Additional **substantive changes**:

- Sec (7) Personnel and Training Requirements added a director designee training requirement upon request of the CCL licensing teams.
  - (6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.
  - (7) The provider shall ensure that the director designee:
    - (a) is at least 18 years old;
    - (b) is considered eligible by ~~[a-CCL]an OBP~~ background check before becoming involved with child care;
    - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by the ~~[department]office~~ before ~~[beginning job duties]becoming involved with childcare~~;
    - (d) completes the director designee training offered by the office;

- Sec (5) Background Check Requirements Subsec (2) (OBP Director Daphne Lynch) addressed language already presented to committee to comply with federal guidelines (CCDF block grant). It caught all individuals who turned 18 during the year and were not getting fingerprinted. Also for anyone not associated with the block grant who were not fingerprinted, were then having to be fingerprinted when moving to a different child care provider. Also changes “form” to “application” to align with the online terminology.

(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:

(a) require the individual to submit an online background check ~~[form]~~ application and fingerprints for individuals age 1~~[8]~~6 years old and older, except for individuals 12-17 years old who are only listed as household members.
- Sec (5) Background Check Requirements Subsec (7) clarifies the time limit for reviewing child abuse findings to be consistent across all entities in our Division. (previously no time limit)

(7) The ~~[department]~~ OBP may consider a covered individual not eligible for any of the following reasons:

(a) LIS supported findings that occurred no more than 15 years from the date on which the application was submitted;
- Sec (10) Ratios and Group Size Table (where applicable) Ratios for two year olds are being changed from 1:7 to 1:8 and maximum group size from 14 to 16 to properly address the accommodation of children in mixed age groups only when needed.
- Sec (11) Child Supervision and Security split out subsection b and added (iii) to align with the rest of supervision requirements in other DLBC programs serving children.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:

(a) for children younger than five years old, a caregiver is physically present in the room or area with the children;

(b) for school-age children, a caregiver; ~~[can hear the children and is close enough to intervene;]~~

(i) a caregiver can hear the children;

(ii) is close enough to intervene if needed; and

(iii) interacts in-person with the children at least every 15 minutes.
- Sec (14) Emergency Preparedness, Response, and Recovery. Keeps existing content and adds (15) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).
- Sec (17) Medications. Removes requirement for child safety caps at the request of the CCL licensing teams as they indicate medications that come in pill form are in

foil packets and liquid medication in its original container already has child safety caps.

- (3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications:
  - (a) are labeled with the child's full name;
  - (b) are stored in the original or pharmacy container; and
  - (c) have the original label. [~~and~~]
  - [~~(d) have child safety caps.~~]
- Sec 24 Infant and Toddler Care changed check-in interval from 20 to 15 minutes to align with the rest of supervision requirements in other DLBC programs serving children.

\*FYI-the final filing may differ slightly depending on legal feedback and administrative rules requirements-if changes are significant, we will bring them back to the committee.\*

**R381. Health and Human Services, Child Care Center Licensing.**

**R381-100. Child Care Centers.**

**R381-100-1. Legal Authority and Purpose.**

- (1) This rule is enacted and enforced in accordance with Section ~~[26B-1-414]~~26B-2-402.
- (2) This rule establishes the foundational standards necessary to protect the health and safety of children in child care centers and defines the general procedures and requirements to get and maintain a license to provide child care.

**R381-100-2. Definitions.**

- (1) Definitions in this rule are additionally found in Rule R380-600.
- ~~[(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from the department.]~~
- (2) "Background Finding" means information in a background check that the ~~[department]~~ OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.
- (4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.
- (5) "Business Days and Hours" means the days of the week and times the facility is open for business.
- ~~[(6) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they: (a) count in the caregiver-to-child ratio; (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or (c) supervise children.]~~
- "CCL" means Child Care Licensing under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- ~~[(8) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they: (a) count in the caregiver-to-child ratio; (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or (c) supervise children.]~~
- ~~[(8)2] "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~[(9) "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430.]~~
- (10) "Child Care" means continuous care and supervision of one or more qualifying children that is:
  - (a) in place of care ordinarily provided by a parent in the parent's home;
  - (b) for less than 24 hours a day; and
  - (c) for direct or indirect compensation.
- (11) "Child Care Program" means a person or business that offers child care.
- ~~[(12) "Child Care Provider Licensing Committee" means the Child Care Provider Licensing Committee created in Section 26B-1-414.]~~
- ~~[(13)2] "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.~~
- ~~[(14) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with any laws or administrative rules has not been maintained.]~~
- ~~[(15)3] "Covered Individual" means any of the following individuals involved with a child care program:
  - (a) an owner;
  - (b) a director;
  - (c) a member of the governing body;
  - (d) an employee;
  - (e) a caregiver;
  - (f) a volunteer, except a parent of a child enrolled in the child care program;
  - (g) an individual age 12 years old or older who resides in the facility; and
  - (h) anyone who has unsupervised contact with a child in care.~~
- ~~[(16)4] "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.~~
- ~~[(17) "Department" means the Utah Department of Health and Human Services.]~~
- ~~[(18)5] "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.~~
- ~~[(19)6] "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with Child Care Licensing rules.~~
- ~~[(20)17] "Eligible" means that there were no findings in a covered individual's background check that would prohibit that covered individual from being involved with child care.~~
- ~~[(21) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.]~~
- ~~[(22)18] "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine 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.~~
- ~~[(23)19] "Facility" means the premises approved by the [department] office to be used for child care.~~
- ~~[(24)0] "Group" means the children who the provider assigns to one or more caregivers for their care and supervision.~~
- ~~[(25)1] "Group Size" means the total number of children in a group per room or area.~~
- ~~[(26)2] "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.~~
- ~~[(27)3] "Health Care Provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.~~

(2[8]4) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.

(2[9]5) "Inaccessible" means out of reach of children by being:

- (a) locked, including in a locked room, cupboard, or drawer;
- (b) secured with a child safety device, including a child safety cupboard lock or doorknob device;
- (c) behind a properly secured child safety gate;
- (d) located at least 36 inches above the floor; or
- (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.

([30]26) "Infant" means a child who is younger than 12 months old.

([34]27) "Infectious Disease" means an illness that is capable of being spread from one individual to another.

([32]28) "Involved with Child Care" means to do any of the following at or for a child care program:

- (a) care for or supervise children;
- (b) volunteer;
- (c) own, operate, direct;
- (d) reside;
- (e) count in the caregiver-to-child ratio; or
- (f) have unsupervised contact with a child in care.

([33]29) "License" means a license issued by the [department]office to provide child care services.

(3[4]0) "Licensee" means the legally responsible person or business that holds a valid license from the [department]office.

(3[5]1) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.

(32) "OBP" means the Office of Background Processing in the Division of Licensing and Background Checks under the Department of Health and Human Services.

(3[6]3) "Older Toddler" means a child age 18 through 23 months old.

(3[7]4) "Over-the-Counter Medication" means medication that an individual can purchase without a written prescription including herbal remedies, vitamins, and mineral supplements.

(3[8]5) "Parent" means the parent or legal guardian of a child in care.

([39]36) "Person" means an individual or a business entity.

~~[(40) "Physical Abuse" is defined in Subsection R512-80-2(25) and also means causing nonaccidental physical harm to a child.]~~

([44]37) "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.

([42]38) "Preschooler" means a child age two through four years old.

([43]39) "Protective Barrier" means a structure including 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.

([44]40) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

~~[(45) "Provider" means the legally responsible person or business that holds a valid license or certification from the department.]~~

(4[6]1) "Qualifying Child" means:

- (a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
- (b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver; or
- (c) a child who is younger than four years old and is the child of the provider or a caregiver.

(4[7]2) "Related Child" means a child for whom a provider is the parent, [legal guardian,] stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(4[8]3) "Room" is defined as follows:

(a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:

(i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;

(ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;

(iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;

(iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or

(v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;

(b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise the [department]office shall consider this to be two rooms; or

(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas;

(c) if in outdoor areas separated by interior fences, the [department]office considers it:

(i) one area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening;

(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;

(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or

(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(4[9]4) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

([50]45) "School-Age Child" means a child age five through 12 years old.

~~[(51)] "Sexual Abuse" is defined in Subsection R512-80-2(30) and also means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.~~

~~[(52)]46 "Sexually Explicit Material" means any depiction of actual or simulated sexual~~[ly explicit]~~ conduct.~~

~~[(53)]47 "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.~~

~~[(54)]48 "Stationary Play Equipment" means equipment including 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 does not have an attached slide, swing, or climber.~~

~~[(55)]49 "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled including:~~

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

~~(b) hardware that forms a hook or leaves a gap or space between components including a protruding open 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.~~

~~[(56)]50 "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.~~

~~[(57)]1 "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.~~

~~[(58)]2 "Working Days" means the days of the week the department is open for business.~~

~~[(59)]3 "Younger Toddler" means a child age 12 through 17 months old.~~

### **R381-100-3. License Required.**

(1) A person shall obtain a license for a child care center from the ~~[department]~~office if they provide care:

(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 five or more unrelated children;

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

(e) on an ongoing basis for four or more weeks in a year; and

(f) for direct or indirect compensation.

(2) A person who does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) The ~~[department]~~office may license a provider to provide child care in a facility that the ~~[department]~~office licensed to offer foster or respite care services, or another licensed or certified human services program, if the part of the building requesting a CCL license is physically separate from the other building services.

~~(4) Rule R380-600 additionally applies to Child Care Center Licensees.~~

### **R381-100-4. ~~[License Application, Renewal, Changes, and Variances.]~~Fire and Other Health Inspections.**

~~[(1)] Each applicant for a new child care license shall:~~

~~(a) submit a CCL online application;~~

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

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

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

~~(e) submit a copy of the educational credentials of the individual who will be the director as required in Section R381-100-7;~~

~~(f) complete CCL background checks for covered individuals as required in Section R381-100-8;~~

~~(g) complete CCL new provider training no more than six months before becoming licensed; and~~

~~(h) pay any required fees, which are nonrefundable.~~

~~[(2)] Each applicant shall pass a department's inspection of the facility before the department issues a new license or a renewal.~~

~~[(3)]1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, the ~~[department]~~office shall verify the applicant's compliance with the following:~~

~~(a) address numbers and letters are readable from the street;~~

~~(b) exit doors operate properly and are well maintained;~~

~~(c) there are no obstructions in exits, aisles, corridors, and stairways;~~

~~(d) exit doors are unlocked from the inside during business hours;~~

~~(e) exits are clearly identified;~~

~~(f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;~~

~~(g) there are working smoke detectors that are properly installed on each level of the building; and~~

~~(h) boiler, mechanical, and electrical panel rooms are not used for storage.~~

~~[(4)]2) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, the ~~[department]~~office shall verify the applicant's compliance with the following:~~

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

~~(b) there is a working thermometer in the refrigerator;~~

~~(c) there is a working stem thermometer available to check cooking and hot hold temperatures;~~

~~(d) cooks have a current food handler's permit available on-site for review by the ~~[department]~~office;~~

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

~~(f) only necessary staff are present in the kitchen;~~

~~(g) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;~~



- (h) chemicals are stored away from food and food service items;
- (i) food is properly stored, kept to the proper temperature, and in good condition; and
- (j) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

[~~(5)(a) Each applicant for a new license shall complete the licensing process within six months from the time any portion of the application is submitted to the department.~~

~~(b) If the applicant cannot achieve successful licensure within six months, the applicant shall reapply.~~

~~(c) Any resubmission shall include the required documentation and payment of licensing fees.~~

~~(d) The department shall conduct a new inspection of the facility before issuing a license.~~

~~(6) The department may deny an application for a license if, within the five 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;~~

~~(d) voluntarily closed after an inspection of the facility found a rule violation 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 child care license expires at midnight on the last day of the month shown on the license, unless the department revokes the license or the provider voluntarily closes the license.~~

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

~~(a) an online renewal request;~~

~~(b) applicable renewal fees;~~

~~(c) any previous unpaid fees; and~~

~~(d) a copy of a current fire inspection report.~~

~~(9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.~~

~~(10) The department may deny renewal of a license for a provider who is no longer caring for children.~~

~~(11) Each 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 child care facility's location; or~~

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

~~(12) A provider shall submit a complete online changes request 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 child care is provided;~~

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

~~(c) a change in the regulation type 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 any applicable rules and has paid the required fees. The expiration date of the amended license remains the same as the previous license.~~

~~(14) Only the department may assign, transfer, or amend a license.~~

~~(15)(a) If an applicant or provider cannot comply with Rule R381-40 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.~~

~~(b) The department may:~~

~~(i) require additional information before acting on a variance request; and~~

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

~~(c) Each provider shall comply with the existing Rule R381-40 unless the department approves a variance.~~

~~(d) If the department approves a variance, the provider shall keep a copy of the written approval on-site for review by parents and the department.~~

~~(e) The department may grant variances for up to 12 months.~~

~~(f) The department may revoke a variance if:~~

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

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

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

#### **R381-100-5. [~~Rule Noncompliance, Penalties, and Agency Action Reviews.~~ Immediate Closure.**

[~~(1) The department may place a program's child care 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 child care 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 child care provider:~~

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

~~(b) violates any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;~~

~~(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) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;~~  
~~(f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;~~  
~~(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 an individual from having a license.~~  
~~(5) Within ten 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]1) In accordance with Rule R380-600, the [The department]office may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~  
~~([7]2) Upon receipt of an immediate closure notice, the provider shall give the [department]office the names and mailing addresses of the parents of each enrolled child so the [department]office [can]may notify the parents of the immediate closure.~~  
~~([8]3) If there is a severe injury or the death of a child in care, the [department]office may order a child care provider to suspend services and prohibit new enrollments, pending a review by the DHHS Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.~~  
~~(9) An unlicensed person providing care that requires a license may be charged with a civil money penalty and a class A misdemeanor unless they:~~  
~~(a) stop providing child care that requires a license; or~~  
~~(b) apply for the appropriate license within 30 calendar days of notification by the department.~~  
~~(10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may 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 a day as provided in Section 26B-2-409.~~  
~~(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.~~  
~~(13) 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 checks, civil money penalties, and other fees assessed by the department.~~  
~~(14) An applicant or provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.]~~

#### **R381-100-6. Administration and Children's Records.**

- (1) The provider shall:
  - (a) be at least 21 years old;
  - (b) be considered eligible by an ~~OBP~~[~~ECL~~] background check before becoming involved with child care; and
  - (c) complete the new provider training offered by the [department]office.
- (2) If the owner is not a sole proprietor, the business entity shall submit to the [department]office 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, welfare, and safety of the public.
- (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.
- (5) The provider shall comply with licensing rules any time a child in care is present.
- (6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.
- (7) The provider shall post a current copy of the [department]office's Parent Guide at the facility for parent review during business hours.
- (8) The provider shall inform parents and the [department]office of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (9) The provider shall:
  - (a) have liability insurance; or
  - (b) inform parents in writing that the provider does not have liability insurance.
- (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.
- (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.
- (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]office.
- (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 foster children and children who are homeless.

(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]office.

(15) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health and Human Services by the date specified by the [department]office.

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

### **R381-100-7. Personnel and Training Requirements.**

(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:

- (a) meet the needs of the children as required by rule; and
- (b) be in compliance with licensing requirements under Rule R381-100.

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

(3) The provider shall ensure that the director:

- (a) is at least 21 years old;
- (b) is considered eligible by [a-CCL]an OBP background check before becoming involved with child care;
- (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by the [department]office;
- (d) completes the new director training offered by the [department]office within 60 working days of assuming director duties;
- (e) knows and follows any applicable laws and requirements under Rules R381-100 and R380-600; and
- (f) completes at least 20 hours of child care training each year based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year.

(4) The provider shall ensure that each new director has one of the following educational credentials:

- (a) any bachelor's or higher education degree, and at least 60 clock hours of coursework in child development, social and emotional development, and the child care environment, or 60 clock hours of equivalent training as approved by the [department]office;
- (b) at least 12 college credit hours of child development courses;
- (c) a currently valid national certification including a Certified Childcare Professional issued by the National Child Care Association, a Child Development Associate issued by the Council for Early Childhood Professional Recognition, or other equivalent credential as approved by the [department]office;

(d) at least an associate degree in early childhood development or related field; or

(e) a National Administrator Credential and at least 60 clock hours of course work in child development, social and emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the [department]office.

(5) The provider shall ensure that the director is on duty at the facility for at least 20 hours a week during operating hours and has sufficient freedom from other responsibilities to manage the center and respond to emergencies.

(6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.

(7) The provider shall ensure that the director designee:

- (a) is at least 18 years old;
- (b) is considered eligible by [a-CCL]an OBP background check before becoming involved with child care;
- (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by the [department]office before [beginning job duties]becoming involved with childcare;

(d) completes the director designee training offered by the office;

([d]e) knows and follows any applicable laws and requirements under Rules R381-100 and Rule R380-600;

([e]f) completes at least 20 hours of child care training each year based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year; and

([f]g) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-100-7(20) and

(21).

(8) The provider shall ensure that the director or the director designee is present at the facility when the center is open for care.

(9) The provider shall ensure that caregivers:

- (a) are at least 16 years old;
- (b) are considered eligible by [a-CCL]an OBP background check before becoming involved with child care;
- (c) complete the 2-1/2 hour preservice training offered by the [department]office before [earing for children]becoming involved with child

care;

(d) know and follow any applicable laws and requirements under Rules R381-100;

(e) are introduced to other program staff and to the caregiver's assigned group of children;

(f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and

(g) complete at least 20 hours of child care training each year, based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year.

(10) The provider shall ensure that any other staff including drivers, cooks, and clerks:

(a) are considered eligible by [a-CCL]an OBP background check before becoming involved with child care;

(b) complete the 2-1/2 hour preservice training offered by the [department]office before [beginning job duties]becoming involved with child care; and

(c) know and follow any applicable laws and requirements under Rules R381-100.

(11) The provider shall ensure that volunteers are eligible by [a-CCL]an OBP background check before becoming involved with child care.

(12) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests wear a guest nametag.

(13) The provider shall ensure that household members who are:

- (a) 12 to 17 years old are considered eligible by ~~[a-CCL]~~an OBP background check; and
- (b) 18 years old or older are eligible by ~~[a-CCL]~~an OBP background check that includes fingerprints.
- (14) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan services including physical, occupational, or speech therapists:
  - (a) provide proper identification before having access to the facility or to a child at the facility; and
  - (b) have received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that individuals from law enforcement, Child Protective Services, the ~~[department]~~office, and any similar entities provide proper identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by the ~~[department]~~office that includes at least the following topics:
  - (a) applicable laws and requirements under Rules R381-100;
  - (b) children whose special needs may include a disability;
  - (c) recognizing the signs of homelessness and available assistance;
  - (d) building and physical premises safety;
  - (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
  - (f) pediatric first aid and CPR;
  - (g) emergency preparedness, response, and recovery plan;
  - (h) prevention of and response to emergencies due to food and allergy reactions;
  - (i) safe handling and disposal of hazardous materials and bio contaminants;
  - (j) prevention and control of infectious diseases including immunizations;
  - (k) administration of medication;
  - (l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
  - (m) precautions in transporting children;
  - (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and
  - (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.
- (17) The provider shall ensure that annual child care training includes at least the following topics:
  - (a) ~~[current department]~~office rule Sections R381-100-7 through R381-100-24; and
- (b) each topic listed in Subsections R381-100-7(16)(a) through (o).
  - (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by the ~~[department]~~office and includes the following:
    - (a) training topic;
    - (b) date of the training;
    - (c) name of the individual or organization that presented the training; and
    - (d) total hours or minutes of training.
  - (19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:
    - (a) at the facility;
    - (b) in each vehicle transporting children; and
    - (c) at each offsite activity.
  - (20) The provider shall ensure that CPR certification includes hands-on testing.
  - (21) The provider shall ensure that the following records for each covered individual are on-site for review by the ~~[department]~~office:
    - (a) the date of initial employment or association with the program;
    - (b) a current pediatric first aid and CPR certification, if required in this rule; and
    - (c) a six-week record of the times worked each day.

**R381-100-8. Background Checks.**

- (1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:
  - (a) associate that individual with their facility; or
  - (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
- (2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:
  - (a) require the individual to submit an online background check ~~[form]~~application and fingerprints for individuals age 1~~[8]~~6 years old and older, except for individuals 12-17 years old who are only listed as household members;
  - (b) authorize the individual's background check through the CCL provider's portal;
  - (c) pay any required fees; and
  - (d) ~~[receive written notice from CCL that the individual is eligible.]~~only allow the individual to be involved with child care if they have an eligible OBP background check determination.
- (3) To keep their background check eligibility current, the provider shall require a covered individual to submit a new background check ~~[form]~~application, fingerprints, and fees if the covered individual has:
  - (a) resided outside of Utah since their last background check was completed;
  - (b) not been associated with an active, CCL approved child care facility within the past 180 days; or
  - (c) turned 18 years old and has not previously submitted fingerprints for ~~[a-CCL]~~an OBP background check, except when the 18-year-old has previously submitted fingerprints for a ~~[a-CCL]~~an OBP background check, then only a new background check ~~[form]~~application will be required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:
  - (a) ensure that an online background check ~~[form]~~application is submitted;
  - (b) authorize the child's background check through the CCL provider's portal; and
  - (c) pay any required fees.

(5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.

(6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the [department]OBP's guidelines.

(7) The [department]OBP may consider a covered individual not eligible for any of the following reasons:

(a) LIS supported findings that occurred no more than 15 years from the date on which the application was submitted;

(b) the covered individual's name appears on the Utah or national sex offender registry;

(c) the covered individual refuses to consent to the criminal background check;

(d) the covered individual knowingly makes a false statement in connection with their background check;

(e) any felony convictions; or

(f) for any of the reasons listed under Subsection R381-100-8(8).

(8) The [department]OBP may also consider a covered individual not eligible for any of the following convictions regardless of severity:

(a) child pornography;

(b) sexual enticing of a minor;

(c) voyeurism;

(d) a sexual exploitation act;

(e) pornographic material or performance;

(f) any crime against an individual;

(g) providing dangerous weapons or firearms to a minor; or

(h) driving under the influence while a child is present in the vehicle.

(9) The [department]OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the [CCL]OBP background check.

(10) If the provider is not eligible by [CCL]OBP, the [department]office may suspend or deny their license until the reason for the background check finding is resolved.

(11) If a covered individual is considered not eligible by [CCL]OBP, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.

(12) If the [department]OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety, [~~the covered individual~~]they may appeal the information to the Department of Public Safety.

(13) The provider and the covered individual shall notify the [department]OBP within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or [supported] LIS supported finding. Failure to notify the [department]OBP within 48 hours may result in disciplinary action, including revocation of the license.

(14) The Executive Director or designee of the department may overturn [~~a CCL~~]an OBP background check decision if they determine[s] that the nature of the background finding or mitigating circumstances do not pose a risk to children.

#### **R381-100-9. Facility.**

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.

(2) The [department]provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store materials for children.

(3) The [department]provider may not include the following areas 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 provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.

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

(6) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.

(7) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass, or have a protective guard.

(8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.

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

(10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(11) The provider shall ensure that there is a working handwashing sink in each classroom or next to each classroom in buildings constructed after July 1, 1997.

(12) The provider shall ensure that rooms where infants or toddlers are cared for have:

(a) one sink that is used exclusively for the preparation of food and bottles and handwashing before food preparation, and another sink that is used only for handwashing after diapering and nonfood activities; or

(b) one working sink that is used only for handwashing in the room, and bottle and food preparation is done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.

(13) The provider shall ensure that there is at least one working toilet and one working sink for each group of one to 25 children in the center who are two years old and older.

(14) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

(15) The provider shall ensure that there is an outdoor area that is safely accessible to children.

(16) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.

(17) The provider shall ensure that the total square footage of the outdoor area accommodates at least one-third of the approved capacity at one time or is at least 1,600 square feet.

(18) The provider shall ensure that a fence encloses the outdoor area, wall, or solid natural barrier that is at least four feet high.

(19) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(20) The provider shall ensure that children are in an enclosed area when children are outdoors, except during offsite activities.

(21) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.

(22) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:

(a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;

(b) maintain the pool in a safe manner; and

(c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(23) 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.

(24) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.

(25) 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 [department] office may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the rules, except when:

(a) there is a separate entrance for the child care 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 child care.

### R381-100-10. Ratios and Group Size.

(1) As listed in Table 1 for single-age groups of children, the provider shall:

(a) maintain at least the number of caregivers and not exceed the number of children in the caregiver-to-child ratio; and

(b) not exceed the maximum group sizes.

Age Group	Caregiver-to-Child ratio	Maximum Group Size
0-11 Months - Infant	1:4	8
12-17 Months -- Younger Toddler	1:4	8
18-23 Months -- Older Toddler	1:5	10
2 Years - Twos	1:[7]8	[44]16
3 Years - Threes	1:12	24
4 Years - Fours	1:15	30
5 Years and older -- School-age	1:20	40

(2) For any mixed-age groups of children, the provider shall:

(a) maintain at least the number of required caregivers;

(b) not exceed the number of children in the caregiver-to-child ratio;

(c) not exceed the maximum group sizes; and

(d) separate any single-age group that reaches their maximum group size from the mix.

(3) For mixed-age groups of children including infants and toddlers, the provider shall ensure that:

(a) infants are only mixed with toddlers, unless:

(i) the group has eight or fewer children;

(ii) there are no more than three children younger than two years old in the group with one caregiver; and

(iii) there are at least two caregivers with the group if more than two children who are younger than 18 months old are present and the group has more than four children;

(b) if older toddlers and two-year-old children are mixed, there is at least one caregiver for up to seven children and at least two caregivers for eight and up to 14 children in the group; and

(c) older toddlers and older children are only mixed, besides when only mixed with two-year-old children, when:

(i) the group has eight or fewer children;

- (ii) there are no more than three older toddlers in the group; and
- (iii) there are at least two caregivers with the group if more than three younger toddlers are present and the group has more than five children.
- (4) For mixed-age groups of children not including infants and toddlers, the provider shall ensure that:
  - (a) the caregiver-to-child ratio is determined by the age of the oldest child present in the group minus one child of that age group; and
  - (b) the maximum group size is determined by the age of the oldest child present in the group, minus two children of that same age group.
- (5) During nap time, the provider shall ensure that the caregiver-to-child ratio is doubled only if:
  - (a) the children in the group are at least 18 months old;
  - (b) the children in the group are in a restful and nonactive state; and
  - (c) the caregiver supervising the napping children can contact another on-site caregiver without leaving the children unattended.
- (6) The provider shall ensure that there are at least two caregivers present when there is only one group of children on the premises and that group has more than eight children, or more than two infants or toddlers.
- (7) The provider shall include the provider's and employees' children age four years old or older in care:
  - (a) in the group size when the parent of the child is working at the facility; and
  - (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.
- (8) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.
- (9) The provider shall ensure that guests do not count in caregiver-to-child ratios.
- (10) The [department]office may exempt a center from maximum group sizes if:
  - (a) the center has been constructed, licensed, and continuously operated since January 1, 2004;
  - (b) the caregiver-to-child ratio is maintained; and
  - (c) the required square footage for each group of children is maintained.

**R381-100-11. Child Supervision and Security.**

- (1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:
  - (a) for children younger than five years old, a caregiver is physically present in the room or area with the children;
  - (b) for school-age children, a caregiver: ~~[can hear the children and is close enough to intervene;]~~
    - (i) a caregiver can hear the children;
    - (ii) is close enough to intervene if needed; and
    - (iii) interacts in-person with the children at least every 15 minutes.
  - (c) caregivers know the number of children in their care at any time;
  - (d) caregivers' attention is focused on the children and not on caregivers' personal interests;
  - (e) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and
  - (f) caregivers position themselves so each child in their assigned group is actively supervised.
- (2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
  - (a) they are left unsupervised for no more than two consecutive hours per group;
  - (b) the director or the director designee is physically present and available as needed; and
  - (c) they are not volunteers.
- (3) The provider shall not assign staff, volunteers, and household members who are younger than 16 years old to care for or supervise any child in care.
- (4) The provider shall ensure that guests and student interns who are registered and participating in a high school or college child care course ~~[and guests]~~ do not have unsupervised contact with any child in care, including during offsite activities and transportation.
- (5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.
- (6) The provider shall ensure that when video cameras or mirrors are used to supervise napping children:
  - (a) the napping room is adjacent to a non-napping room;
  - (b) there is a staff member in the non-napping room;
  - (c) cameras or mirrors are positioned so that the staff member can see and hear each child;
  - (d) there is an open door without a barrier, including a gate, between the napping room and the non-napping room; and
  - (e) the staff member moves children who wake up to the non-napping room.
- (7) The provider shall ensure that a blanket or other item is not placed over sleeping equipment in a way that prevents the caregiver from seeing the sleeping child.
- (8) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
- (9) To maintain security and supervision of children, the provider shall ensure that:
  - (a) each child is signed in and out in accordance with this section;
  - (b) only parents or individuals with written authorization from the parent may sign-out a child;
  - (c) photo identification is required if the individual signing the child out is unknown to the provider;
  - (d) individuals signing children in and out use identifiers, including 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 the child's parent if school-age children sign themselves in or out.
- (10) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
  - (a) the individual giving verbal authorization; and
  - (b) the individual picking up the child.
- (11) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by the [department]office.

**R381-100-12. Child Guidance and Interaction.**

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.
- (5) The provider shall ensure that interactions with the children do not include:
  - (a) any form of corporal punishment or any action that produces physical pain or discomfort including 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~~] mistreatment;
  - (e) forcing or withholding food, rest, or toileting; or
  - (f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.
- (6) Any individual 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 Section 80-2-602.

**R381-100-13. Child Safety and Injury Prevention.**

- (1) The provider shall ensure that children and staff use the building, outdoor area, toys, and equipment safely and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.
- (3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.
- (4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.
- (5) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.
- (6) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.
- (7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.
- (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
- (9) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:
  - (a) inaccessible to children;
  - (b) used according to manufacturer instructions;
  - (c) stored in containers labeled with the contents of the container; and
  - (d) disposed of properly.
- (10) The provider shall ensure that the following items are inaccessible to children:
  - (a) matches or cigarette lighters;
  - (b) open flames;
  - (c) hot wax or other hot substances; and
  - (d) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (11) The provider shall ensure that the following items are inaccessible to children:
  - (a) live electrical wires; and
  - (b) for children younger than five years old, electrical outlets and surge protectors without protective caps or safety devices when not in use.
- (12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:
  - (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
  - (b) stored unloaded and separate from ammunition.
- (13) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.
- (14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.
- (15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.
- (16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.
- (17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.
- (18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.
- (19) The provider shall ensure that infant walkers with wheels are inaccessible to children.
- (20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, are not used:
  - (a) in the facility or any other building when a child is in care;
  - (b) in any vehicle that is being used to transport a child in care;
  - (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or
  - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.



**R381-100-14. Emergency Preparedness, Response, and Recovery.**

- (1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:
- (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;
  - (b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;
  - (c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;
  - (d) is available for review by parents, staff, and the [department]office during business hours; and
  - (e) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the center's street address and emergency numbers, including at least fire, police, and poison control, near each telephone in the center or in an area clearly visible to anyone needing the information.
- (3) The provider shall keep first aid supplies in the center, including at least antiseptic, bandages, and tweezers.
- (4) The provider shall conduct fire evacuation drills monthly and make sure drills include a complete exit of each child, staff, and volunteers from the building.
- (5) 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 individual supervising the drill;
  - (d) the total time to complete the evacuation; and
  - (e) any problems encountered and remediation.
- (6) The provider shall conduct drills for disasters other than fires at least once every six months.
- (7) The provider shall document each disaster drill, including:
- (a) the type of disaster, including 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 individual supervising the drill; and
  - (e) any problems encountered and remediation.
- (8) The provider shall vary the days and times on which fire and other disaster drills are held.
- (9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the [department]office.
- (10) The provider shall:
- (a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;
  - (b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and
  - (c) if school-age children sign themselves out of the center, send a copy of the report 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 provider shall contact the child's parent immediately.
- (12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:
- (a) call emergency personnel immediately;
  - (b) contact the parent after emergency personnel are called; and
  - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (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]office within the next business day of the incident; or
  - (b) contact the [department]office within the next business day and submit a completed accident report form within five business days of the incident.
- (14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by the [department]office.
- (15) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

**R381-100-15. Health and Infection Control.**

- (1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:
- (a) walls and flooring clean and free of spills, dirt, and grime;
  - (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;
  - (c) surfaces free of rotting food or a build-up of food;
  - (d) the building and grounds free of a build-up of litter, trash, and garbage;
  - (e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and
  - (f) the facility 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) The provider shall clean and sanitize any toys and materials used by children:
- (a) at least once a week or more often if needed;
  - (b) after being put in a child's mouth and before another child plays with the toy; and
  - (c) after being contaminated by a body fluid.
- (4) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize highchair trays before each use.
- (6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.
- (7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.
- (8) The provider shall clean and sanitize potty chairs after each use.

- (9) The provider shall keep toilet paper in a dispenser that is accessible to children.
- (10) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.
- (11) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water:
- upon arrival;
  - before handling or preparing food or bottles;
  - before and after eating meals and snacks or feeding a child;
  - after using the toilet or helping a child use the toilet;
  - after contact with a body fluid;
  - when coming in from outdoors; and
  - after cleaning up or taking out garbage.
- (12) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.
- (13) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water:
- upon arrival;
  - before and after eating meals and snacks;
  - after using the toilet;
  - after contact with a body fluid;
  - before using a water play table or tub; and
  - when coming in from outdoors.
- (14) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer is used to dry hands.
- (15) The provider shall store personal hygiene items, including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.
- (16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:
- labeled with each child's name or individually identified; and
  - not shared, or washed and sanitized before being used by another child.
- (17) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:
- not rinsed or washed at the center;
  - placed in a leakproof container that is labeled with the child's name; and
  - returned to the parent, or thrown away with parental consent.
- (19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:
- wear waterproof gloves;
  - clean the surface using a detergent solution;
  - rinse the surface with clean water;
  - sanitize the surface;
  - throw away in a leakproof plastic bag the disposable materials, including paper towels, that were used to clean up the body fluid;
  - wash and sanitize any nondisposable materials used to clean up the body fluid, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
  - wash their hands after cleaning up the body fluid.
- (20) The provider may not care for a child who is ill with an infectious disease at the center except when the child shows signs of illness after arriving at the center.
- (21) If a child becomes ill while in care:
- 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
  - if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.
- (22) If 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 provider discovers the illness.
- (23) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center that:
- does not disclose any personal identifiable information;
  - is posted in a conspicuous place where it can be seen by parents;
  - is posted and dated on the same day that the disease or parasite is discovered; and
  - remains posted for at least five business days.
- (24) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:
- individuals who prepare food in the kitchen do not change diapers or help in toileting children;
  - caregivers who care for diapered children only prepare food for the children in their care, and they do not prepare food outside of the room used by the diapered children or prepare food for other children and adults in the facility; and
  - individuals with an infectious disease or showing symptoms including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

**R381-100-16. Food and Nutrition.**

- The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.
- If the provider supplies food for children's meals or snacks, the provider shall ensure that:
  - the meal service meets local health department food service rules;
  - the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;
  - the provider uses the CACFP meal pattern requirements, the standard [department] office-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;

- (d) the current week's menu is posted for review by parents and the [department]office; and
- (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.
- (3) The provider shall ensure that the individual who serves food to children:
  - (a) is aware of the children in their assigned group who have food allergies or sensitivities; and
  - (b) ensures that the children are not served the food or drink they are allergic or sensitive to.
- (4) The provider may not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food including a cracker, which may be placed directly in a child's hand.
- (5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:
  - (a) labeled with the child's name;
  - (b) refrigerated if needed; and
  - (c) consumed only by that child.

**R381-100-17. Medications.**

- (1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.
- (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.
- (3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications:
  - (a) are labeled with the child's full name;
  - (b) are stored in the original or pharmacy container; and
  - (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 provider shall ensure that the medication permission form includes at least:
  - (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 provider shall ensure that instructions for administering the medication include at least:
  - (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 provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
  - (a) written; or
  - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
  - (a) washes their hands;
  - (b) check the medication label to confirm the child's name if the parent supplied the medication;
  - (c) checks 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) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:
  - (a) the date, time, and dosage of the medication given;
  - (b) any error in administering the medication or adverse reactions; and
  - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by the [department]office.

**R381-100-18. Activities.**

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.
- (4) For each preschool and school-age group, the provider shall post a daily schedule that includes:
  - (a) activities that support children's healthy development; and
  - (b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.
- (5) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.
- (6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is:
  - (a) not allowed for children zero to 17 months old;

- (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
- (c) planned to address the needs of children five to 12 years old.
- (7) If the provider offers swimming activities, or if wading pools are used, the provider shall ensure that:
  - (a) the parent gives permission before their child in care uses the pool;
  - (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
  - (c) diapered children wear swim diapers when they are in the pool;
  - (d) wading pools are emptied and sanitized after use by each group of children;
  - (e) if the pool is over four feet deep, there is 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
  - (f) lifeguards and pool personnel do not count toward the caregiver-to-child ratio.
- (8) If the provider offers offsite activities, the provider shall ensure that:
  - (a) the parent gives written consent before each activity;
  - (b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;
  - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
  - (d) children wear or carry with them the name and phone number of the center;
  - (e) children's names are not used on nametags, t-shirts, or in other visible ways; and
  - (f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.
- (9) The provider shall ensure that a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
  - (a) the child's name;
  - (b) the parent's name and phone number;
  - (c) the name and phone number of an individual to notify if an emergency happens and 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.

**R381-100-19. Play Equipment.**

- (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.
- (2) The provider shall ensure that the highest designated play surface on stationary play equipment used by infants or toddlers does not exceed three feet in height.
- (3) The provider shall ensure that swings used by infants or toddlers have enclosed seats.
- (4) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of swings, stationary play equipment that is:
  - (a) used by infants or toddlers has at least a three-foot use zone if any designated play surface is higher than 18 inches;
  - (b) used by preschoolers has at least a six-foot use zone if any designated play surface is higher than 20 inches; and
  - (c) used by school-age children has at least a six-foot use zone if any designated play surface is higher than 30 inches.
- (5) The provider shall ensure that the use zone in the front and rear of a single-axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.
- (6) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.
- (7) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends:
  - (a) at least the measurement of the suspending rope or chain plus three feet, if the swing is used by infants or toddlers; or
  - (b) at least the measurement of the suspending rope or chain plus six feet, if the swing is used by preschoolers or school-age children.
- (8) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.
- (9) The provider shall ensure that the use zone for a spring rocker extends:
  - (a) at least three feet from the outermost edge of the rocker when at rest; or
  - (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.
- (10) The provider shall ensure that the following use zones do 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, including a single-axis enclosed 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.
- (11) Unless prohibited in Subsection R381-100-19(10), the provider shall ensure that the use zones of play equipment only overlap when:
  - (a) the equipment is used by infants or toddlers, and there is at least three feet between the pieces of equipment; or
  - (b) the equipment is used by preschoolers or school-age children and there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.
- (12) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.
- (13) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.
- (14) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall:
  - (a) ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 2 if compacted;
  - (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and
  - (c) ensure that the depth of the material meets the guidelines in Table 2.

TABLE 2					
Depths of Protective Cushioning Required for [s]Sand, Gravel, and Shredded Tires and Rubber Products					
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine [s]Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' 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 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

(15) If the provider uses shredded wood products as protective cushioning, the provider shall:

- (a) keep on-site for review by the [department]office documentation from the manufacturer that the wood product is protective cushioning;
- (b) ensure there is adequate drainage under the material; and
- (c) ensure the depth of the shredded wood meets the guidelines in Table 3.

TABLE 3			
Depths of Protective Cushioning Required for Shredded Wood Products			
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood [f]Fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

(16) If the provider uses a unitary cushioning, the provider shall maintain on-site for review by the [department]office documentation from the manufacturer that the material is cushioning for playgrounds.

(17) If a unitary cushioning, 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.

(18) The provider shall ensure that a play equipment platform that is more than:

- (a) 18 inches above the floor or ground and used by infants or toddlers has a protective barrier that is at least 24 inches high;
- (b) 30 inches above the floor or ground and used by preschoolers has a protective barrier that is at least 29 inches high; and
- (c) 48 inches above the floor or ground and used by school-age children has a protective barrier that is at least 38 inches high.

(19) The provider shall ensure that there is no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(20) The provider shall ensure that stationary play equipment is stable or securely anchored.

(21) The provider shall ensure that there are no trampolines on the premises that are accessible to any child in care.

(22) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.

(24) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

(25) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

#### **R381-100-20. Transportation.**

(1) For each child that the [licensee]provider transports, the provider shall obtain a transportation permission form:

- (a) signed by the parent; and
- (b) on-site for review by the [department]office.

(2) The provider shall ensure that each vehicle used for transporting children:

- (a) is enclosed with a roof or top;
- (b) is equipped with safety restraints;

- (c) has a current vehicle registration;
- (d) is maintained in a safe and clean condition; and
- (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
  - (a) appropriate for the age and size of each child who is transported, as required by Utah law;
  - (b) properly installed; and
  - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
  - (a) is at least 18 years old;
  - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
  - (c) has with them the emergency contact information outlined in Subsection R381-100-18(9) for each child being transported;
  - (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;
  - (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
  - (f) never leaves a child in the vehicle unattended by an adult;
  - (g) ensures that children stay seated while the vehicle is moving;
  - (h) never leaves the keys in the ignition when not in the driver's seat; and
  - (i) ensures that the vehicle is locked during transport.
- (5) If 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 caregiver goes with the children and actively supervises the children;
  - (c) the caregiver-to-child ratio is maintained; and
  - (d) a caregiver with the children has emergency contact information outlined in Subsection R381-100-18(9) and releases for the children being transported.
- (6) The provider shall:
  - (a) have transport liability insurance; or
  - (b) inform parents in writing that the provider does not have transport liability insurance.

**R381-100-21. Animals.**

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is 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 individual.
- (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.
- (6) If school-age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.
- (8) The provider shall ensure that dogs, cats, and ferrets that the facility houses have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by the [department] office.

**R381-100-22. Rest and Sleep.**

- (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.
- (2) The provider shall not schedule nap or rest times for more than two hours a day.
- (3) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.
- (4) The provider shall keep sleeping equipment in good repair, including that mats and mattresses have smooth, waterproof surfaces.
- (5) The provider shall ensure that each crib:
  - (a) has a tight-fitting mattress;
  - (b) has slats spaced no more than 2-3/8 inches apart;
  - (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;
  - (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and
  - (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.
- (6) When in use, the provider shall place sleeping equipment including cribs, cots, and mats at least two feet apart.
- (7) The provider shall ensure that sleeping equipment does not block exits.
- (8) The provider shall make a sheet and blanket or acceptable alternative available to each child 12 months or older during nap time, and ensure that these items are:
  - (a) clearly assigned to one child;
  - (b) stored separately from other children's bedding; and
  - (c) laundered as needed, but at least once a week, and before use by another child.
- (9) The provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual child before each use.
- (10) The provider shall:
  - (a) store sleeping equipment in a way the surfaces children sleep on do not touch each other; or
  - (b) clean and sanitize sleeping equipment before each use.

**R381-100-23. Diapering.**

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows these procedures.
- (3) The provider shall ensure that each child's diaper is:
  - (a) checked at least once every two hours;
  - (b) promptly changed if wet or soiled; and
  - (c) checked as soon as a sleeping child awakens.
- (4) The provider shall ensure that caregivers change children's diapers at a diapering station and not on surfaces used for any other purpose.
- (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (6) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.
- (7) The provider shall ensure that caregivers do not leave children unattended on the diapering surface.
- (8) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (9) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.
- (10) The provider shall ensure that caregivers place wet and soiled disposable diapers:
  - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
  - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
  - (c) in a container that is inaccessible to children.
- (11) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.
- (12) If cloth diapers are used, the provider shall:
  - (a) not rinse cloth diapers at the facility; and
  - (b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or
  - (c) place the cloth diapers in a leakproof diapering service container.

**R381-100-24. Infant and Toddler Care.**

- (1) This section only applies to a provider that accepts infants or toddlers.
- (2) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every ~~20~~15 minutes.
- (3) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.
- (4) The provider shall ensure that infant and toddler areas are not used to pass through or access other indoor and outdoor areas.
- (5) The provider shall ensure that infants and toddlers play in the same enclosed outdoor space with older children only when there are eight or fewer children in the group.
- (6) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions including hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.
- (7) For their healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.
- (8) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.
- (9) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.
- (10) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.
- (11) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.
- (12) The provider shall allow each infant and toddler to eat and sleep on their own schedule.
- (13) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual child's use is:
  - (a) labeled with the child's name;
  - (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;
  - (c) kept refrigerated if needed; and
  - (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.
- (14) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that bottles are not propped.
- (15) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.
- (16) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.
- (17) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.
- (18) The provider shall ensure that infants sleep in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that infants are not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (19) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (20) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.
- (21) The provider shall document each infant's eating and sleeping patterns each day infants are at the facility, and make sure the record:
  - (a) is completed within an hour of each feeding or nap; and
  - (b) includes the infant's name, the food and beverages eaten, and the times the infant slept.
- (22) Within an hour of each infant or toddler's diaper change, the provider shall record:
  - (a) the infant or toddler's name;
  - (b) the time of the diaper change; and
  - (c) whether the diaper was dry, wet, soiled, or both.
- (23) The provider shall maintain on-site for review by the ~~department~~office a six-week record of:

- (a) the eating and sleeping patterns for each infant; and
- (b) the diaper changes for each infant and toddler.

**KEY: child care facilities, child care, child care centers**

**Date of Last Change: November 9, 2023**

**Notice of Continuation: April 14, 2020**

**Authorizing, and Implemented or Interpreted Law: 26B-2-402**



**R430. Health and Human Services, Residential Child Care Licensing.**

**R430-8. Exemptions From Child Care Licensing.**

**R430-8-1. Legal Authority and Purpose.**

- (1) Section 26B-2-402 authorizes this rule.
- (2) This rule defines what constitutes child care that is excluded from any of the regulatory requirements of the Utah Department of Health and Human Services, Child Care Licensing Program.

**R430-8-2. Definitions.**

- (1) Definitions in this rule are additionally found in Rule R380-600.
- (~~1~~2) "Background Finding" means information in a background check that Child Care Licensing uses to determine if a covered individual is or is not eligible to be involved with child care.
- (~~2~~3) "Calendar Week" means from Sunday through Saturday.
- (~~3~~4) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
- (a) count in the caregiver-to-child ratio;
  - (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
  - (c) supervise children.
- (~~4~~5) "CCL" means ~~the~~ Child Care Licensing ~~Program~~ in the Division of Licensing and Background Checks, under the Department of Health and Human Services that is delegated with the responsibility to enforce rules under Titles R381 and R430 and Rule R380-600.
- (~~5~~6) "Child Care" means continuous care and supervision of one or more qualifying children that is:
- (a) in place of care ordinarily provided by a parent in the parent's home;
  - (b) for less than 24 hours a day; and
  - (c) for direct or indirect compensation.
- (~~6~~7) "Child Care Program" means a person or business that offers child care.
- (~~7~~8) "Covered Individual" means any of the following individuals involved with a child care program:
- (a) an owner;
  - (b) a director;
  - (c) a member of the governing body;
  - (d) an employee;
  - (e) a caregiver;
  - (f) a volunteer, except a parent of a child enrolled in the child care program;
  - (g) an individual age 12 years old or older who resides in the facility; and
  - (h) anyone who has unsupervised contact with a child in care.
- ~~(8) "Department" means the Utah Department of Health and Human Services.]~~
- (9) "Eligible" means that there were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.
- (10) "Facility" means a child care program or the premises used for child care.
- (11) "Involved with Child Care" means to do any of the following at or for a child care program:
- (a) care for or supervise children;
  - (b) volunteer;
  - (c) own, operate, direct;
  - (d) reside;
  - (e) count in the caregiver-to-child ratio; or
  - (f) have unsupervised contact with a child in care.
- (12) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (13) "OBP" means the Office of Background Processing in the Division of Licensing and Background Checks under the Department of Health and Human Services.
- (~~1~~3)4) "Parochial Education Institution" means an institution that meets the following criteria:
- (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;
  - (b) has a governing board that actively supervises and directs the educational curriculum used by the institution and exercises oversight over the health and safety of the children in the program;
  - (c) is owned and operated by a religious institution that is registered with the federal government as an 501(c)(3) religious organization;
  - (d) is not directly funded at public expense;
  - (e) does not receive:
    - (i) child care grant or subsidy funds, directly or indirectly, from the Department of Workforce Services; or
    - (ii) child care food program funds, directly or indirectly, from the State Office of Education; and

(f) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.

(1[4]5) "Private Education Institution" means an institution that meets the following criteria:

(a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;

(b) has a governing board that actively supervises and directs the educational curriculum used by the institution, and exercises oversight over the health and safety of the children in the program;

(c) is not directly funded at public expense;

(d) does not receive:

(i) child care grant or subsidy funds, directly or indirectly, from the Department of Workforce Services; or

(ii) child care food program funds, directly or indirectly, from the State Office of Education; and

(e) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.

(1[5]6) "Public School" means a school, including a charter school, that is directly funded at public expense and is regulated by a board of education governed by Title 53A, Chapter 3, Local School Boards.

(1[6]7) "Qualifying Child" means:

(a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;

(b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver; or

(c) a child who is younger than four years old and is the child of the provider or a caregiver.

(1[7]8) "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.

(1[8]9) "Relative Care" means care provided to a qualifying child by or in the home of the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, uncle, step-aunt, step-uncle, great-aunt, or great-uncle.

#### **R430-8-3. License, ~~or~~ Certificate, ~~or~~ Exemption, ~~and~~ Background Check Not Required.**

~~[(1)]~~ The ~~following~~ types of care listed in this section do not require a child care license, certificate, or exemption from the office. ~~[, or the submission of background check documents to the department.]~~

~~[(a)1]~~ ~~[e]~~Care provided on no more than two days during any calendar week;

~~[(b)]~~ ~~care provided in the home of the provider for less than four hours a day, or for fewer than seven unrelated children in the home at one time;~~

~~[(2)]~~ Residential child care providers caring for eight or less qualifying children at a time, in the provider's home for fewer than four hours a day;

~~[(e)3]~~ ~~[e]~~Care provided in the home of the provider on a sporadic basis only;

~~[(d)4]~~ ~~[e]~~Care provided by a facility or program owned or operated by an agency of the United States government;

~~[(e)5]~~ a group counseling provided by a mental health therapist who is licensed to practice in this state;

~~[(f)6]~~ a health care facility licensed pursuant to Title 26B, Chapter 2, Part 4 ~~[Child]~~ Health Care Facility Licensing;

~~[e]~~

~~[(g)7]~~ ~~[e]~~Care provided at a residential support program that is licensed by the ~~[department]~~office.

#### **R430-8-4. Exempt Application and Public Notice Required.**

(1) The following types of care do not require a child care license or certificate from the ~~[department]~~office, but do require the provider to meet the application and public notice requirements outlined in this rule:

(a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

(b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

(c) care provided to a qualifying child at a public school by an organization other than the public school, if:

(i) the care is provided under contract with the public school or on school property; or

(ii) the public school accepts responsibility and oversight for the care provided by the organization;

(d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;

(e) care provided by an organization that:

(i) qualifies for tax exempt status under Section 501(c)(3), Internal Revenue Code;

(ii) provides care pursuant to a written agreement with:

(A) a municipality that provides oversight for the program; or

(B) a county that provides oversight for the program; and

- (iii) provides care to a child who is over the age of four and under the age of 13;
- (f) care provided to a qualifying child at a facility where:
  - (i) the parent or guardian of the qualifying child is physically present in the building where the care is provided while the child is in care and the parent or guardian is near enough to reach the child within five minutes if needed;
  - (ii) the duration of the care is less than four hours for an individual qualifying child in any one day;
  - (iii) the care is provided on a sporadic basis;
  - (iv) the care does not include diapering a qualifying child; and
  - (v) the care does not include preparing or serving meals to a qualifying child[-];
- (2) Providers listed in this subsection shall submit to the [department]office, each year the program is open for business, an application for verification of license exempt status on the form provided by the [department]office.
- (3) Providers listed in this subsection shall post, in a conspicuous location near the entrance of the provider's facility, a notice prepared by the [department]office that:
  - (a) states that the facility is exempt from licensure and certification; and
  - (b) provides the [department]office's contact information for submitting a complaint.
- (4) Substantiated complaint allegations against providers listed in this subsection will be available to the public and posted by the [department]office on the Child Care Licensing website.

**R430-8-5. Background Check Requirements and Agency Action Reviews.**

(1) An exempt provider who cares for a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to the background check requirements listed under this section, unless required by the United States Code, Title 42, Sections 9857-9858r, Child Care and Development Block Grant.

(2) Except as outlined in Subsection R430-8-5(1), the requirements of this subsection apply to: ~~each facility listed in Section R430-8-4]~~

- ~~(a) each facility listed in Section R430-8-4;~~
- ~~(b) except for sporadic care, any unlicensed residential child care provider caring:~~
  - ~~(i) for eight or less qualifying children at one time or for up to ten qualifying children including their own;~~
  - ~~(ii) in the provider's home for four or more hours a day; and~~
  - ~~(iii) for more than two days a week.~~
- ~~(3) In addition to the requirements of this subsection, each provider as described in Subsection R430-8-5(2)(b) shall:~~
  - ~~(a) register with the office to facilitate the OBP background check process; and~~
  - ~~(b) care for no more than two children under the age of three.~~

~~(3)4~~ The provider shall submit to the [department]OBP background checks and fees for each covered individual as defined in Subsection R430-8-2(7).

~~(4)5~~ Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and either:

- (a) associate that individual with their facility; or
- (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.

~~(5)6~~ Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:

- (a) have the individual submit an online background check [form]application and fingerprints for individuals age 1[8]6 years old and older, except for individuals 12-17 years old who are listed as household members;
- (b) authorize the individual's background check through the CCL provider's portal;
- (c) pay any required fees; and
- (d) ~~[receive written notice from CCL that the individual is eligible.]~~only allow the individual to be involved with childcare if they have an eligible OBP background check determination.

~~(6)7~~ To keep their background check eligibility current, the provider shall also ensure that a new background check [form]application and fingerprints are submitted and authorized and fees are paid for any covered individual who has:

- (a) resided outside of Utah since their last background check was completed;
- (b) not been associated with an active, [CCL]OBP approved child care facility within the past 180 days; or
- (c) has turned 18 years old and has not previously submitted fingerprints for an [CCL]OBP background check. If the 18-year-old has previously submitted fingerprints for an [CCL]OBP background check, only a new background check [form]application will be required.

~~(7)8~~ The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.

~~(8)9~~ If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the [department]OBP's guidelines.

~~(9)10~~ The [department]OBP may consider a covered individual not eligible for any of the following reasons:

- (a) LIS supported findings that occurred no more than 15 years from the date on which the application was submitted;
- (b) the covered individual's name appears on the Utah or national sex offender registry;
- (c) the covered individual refuses to consent to the criminal background check;
- (d) the covered individual knowingly makes a false statement in connection with their background check;

- (e) any felony convictions; or
- (f) for any of the reasons listed under Subsection R430-8-5(10).

(1[0]1) The [department]OBP may also consider a covered individual not eligible for any of the following convictions regardless of severity:

- (a) child pornography;
- (b) sexual enticing of a minor;
- (c) voyeurism;
- (d) a sexual exploitation act;
- (e) pornographic material or performance;
- (f) any crime against an individual;
- (g) providing dangerous weapons or fire arms to a minor; or
- (h) driving under the influence while a child is present in the vehicle.

(1[+]2) The [department]OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the [CCL]OBP background check was conducted.

(1[2]3) If the provider is deemed not eligible by [CCL]OBP, the [department]office may suspend or deny their license until the reason for the background check finding is resolved.

(1[3]4) If a covered individual is deemed not eligible by [CCL]OBP, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.

(1[4]5) If a covered individual is denied a license or employment based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety, ~~the covered individual~~ they may appeal the information to the Department of Public Safety.

(1[5]6) The provider and the covered individual shall notify the [department]OBP within 48 hours of becoming aware of the covered individual's arrest warrant, felony, or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the [department]OBP within 48 hours may result in disciplinary action, including revocation of the license.

(1[6]7) The Executive Director or designee of the department may overturn an OBP [CCL] background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.

(1[7]8) An applicant or exempt provider may request an agency review for any [department]OBP decision within ten working days of being informed in writing of the decision.

#### **R430-8-6. Voluntary Licensure.**

A child care provider who is not required to be licensed or certified under this rule may voluntarily receive a license and agree to be subject to each of the terms and conditions of the license, except for the following:

- (1) relative care only; or
- (2) care provided in the home of the provider on a sporadic basis only.

**KEY: child care facilities, exemptions from Child Care Licensing**

**Date of Last Change: December 12, 2023**

**Notice of Continuation: April 17, 2019**

**Authorizing, and Implemented or Interpreted Law: 26B-2-402**

**R430. Health and Human Services, Residential Child Care Licensing.**

**R430-50. Residential Certificate Child Care.**

**R430-50-1. Legal Authority and Purpose.**

(1) This rule is enacted and enforced in accordance with Section 26B-2-402.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a residential certificate to provide child care.

**R430-50-2. Definitions.**

(1) Definitions in this rule are additionally found in Rule R380-600.

~~\_\_\_\_\_ (1) "Applicant" means a person or business who has applied for a new or a renewal of a license from the department.]~~

(2) "Background Finding" means information in a background check that the [department] OBP uses to determine if a covered individual is or is not eligible to be involved with child care.

(3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.

(4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.

(5) "Business Days and Hours" means the days of the week and times the facility is open for business.

~~\_\_\_\_\_ (6) ["Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~

~~\_\_\_\_\_ (a) count in the caregiver-to-child ratio;~~

~~\_\_\_\_\_ (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~

~~\_\_\_\_\_ (c) supervise children.] "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.~~

(7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.

~~\_\_\_\_\_ (8) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~

~~\_\_\_\_\_ (a) count in the caregiver-to-child ratio;~~

~~\_\_\_\_\_ (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or~~

~~\_\_\_\_\_ (c) supervise children.~~

~~\_\_\_\_\_ ([8]9) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.~~

~~\_\_\_\_\_ (9) "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430.]~~

(10) "Child Care" means continuous care and supervision of one or more qualifying children that is:

(a) in place of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

(11) "Child Care Program" means a person or business that offers child care.

(12) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.

~~\_\_\_\_\_ (13) "Conditional Status" means that the provider is at risk of losing their child care residential certificate because compliance with any laws or administrative rules has not been maintained.]~~

~~(1[4]3) "Covered Individual" means any of the following individuals involved with a child care program:~~

~~(a) an owner;~~

~~(b) an employee;~~

~~(c) a caregiver;~~

~~(d) a volunteer, except a parent of a child enrolled in the child care program;~~

~~(e) an individual age 12 years old or older who resides in the facility; and~~

~~(f) anyone who has unsupervised contact with a child in care.~~

~~(1[5]4) "Crib" means an infant's bed with sides to protect them from falling, including a bassinet, porta-crib, or play~~

~~pen.~~

~~(1[6]5) "Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.~~

~~\_\_\_\_\_ (17) "Department" means the Utah Department of Health and Human Services.]~~

~~(1[8]6) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.~~

~~(1[9]7) "Eligible" means that there were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.~~

[~~\_\_\_\_\_~~ (20) "Emotional Abuse" is defined in Subsection R512-80-2(12) and also means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.]

(~~21~~)18 "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine 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.

(~~22~~)19 "Facility" means the premises approved by the [department]office for child care.

(~~23~~)20 "Group" means the children who are assigned to and supervised by one or more caregivers.

(~~24~~)1 "Group Size" means the total number of children in a group.

(~~25~~)2 "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.

(~~26~~)3 "Health Care Provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.

(~~27~~)4 "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.

(~~28~~)5 "Inaccessible" means out of reach of children by being:

- (a) locked, including in a locked room, cupboard, or drawer;
- (b) secured with a child safety device, including a child safety cupboard lock or doorknob device;
- (c) behind a properly secured child safety gate;
- (d) located at least 36 inches above the floor; or
- (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.

(~~29~~)6 "Infant" means a child who is younger than 12 months old.

(~~30~~)7 "Infectious Disease" means an illness that is capable of being spread from one individual to another.

(~~31~~)28 "Involved with Child Care" means to do any of the following at or for a child care program:

- (a) care for or supervise children;
- (b) volunteer;
- (c) own, operate, direct;
- (d) reside;
- (e) count in the caregiver-to-child ratio; or
- (f) have unsupervised contact with a child in care.

(~~32~~)29 "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the [department]OBP.

(30) "OBP" means the Office of Background Processing in the Division of Licensing and Background Checks under the Department of Health and Human Services.

(~~33~~)1 "Over-the-Counter Medication" means medication that can be bought without a written prescription including herbal remedies, vitamins, and mineral supplements.

(~~34~~)2 "Parent" means the parent or legal guardian of a child in care.

[~~\_\_\_\_\_~~ (35) "Physical Abuse" is defined in Subsection R512-80-2(25) and also means causing nonaccidental physical harm to a child.]

(~~36~~)3 "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand and move freely on.

(~~37~~)4 "Preschooler" means a child age two through four years old.

[~~\_\_\_\_\_~~ (38) "Provider" means the legally responsible person or business that holds a valid residential certificate from the department.]

(~~39~~)5 "Qualifying Child" means:

- (a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
- (b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver; or
- (c) a child who is younger than four years old and is the child of the provider or a caregiver.

(~~40~~)36 "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~~)37 "Residential Child Care" means care that takes place in a child care provider's home.

(~~42~~)38 "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(~~43~~)39 "School-Age Child" means a child age five through 12 years old.

[~~\_\_\_\_\_~~ (44) "Sexual Abuse" is defined in Subsection R512-80-2(30) and also means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.]

(~~45~~)0 "Sexually Explicit Material" means any depiction of actual or simulated sexual[ly explicit] conduct.

(~~46~~)1 "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(~~47~~)2 "Stationary Play Equipment" means equipment including 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 does not have an attached slide, swing, or climber.

(4)(8)(3) "Strangulation Hazard" means an item where a child's clothes or drawstrings could become caught or entangled including:

- (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
  - (b) hardware that forms a hook or leaves a gap or space between components including a protruding open 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.
- (4)(9)(4) "Toddler" means a child age 12 through 23 months old.
- (15)(9)(45) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by OBP[CCL].

(15)(4)(46) "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 where a child falling from or exiting the equipment could be expected to land.

(15)(2)(47) "Working Days" means the days of the week the department is open for business.

**R430-50-3. Residential Certificate[Required].**

(1) In accordance with Section 26B-2-404, [A]an individual [shall]may become certified as a residential child care provider if they provide care:

- (a) in the provider's home;
- (b) in the absence of the child's parent;
- (c) for [seven or] eight or fewer [unrelated]qualifying children;
- (d) for four or more hours a day;
- (e) for each individual child for less than 24 hours a day;
- (f) on a regularly scheduled, ongoing basis; and
- (g) for direct or indirect compensation.

(2) An individual shall become licensed or certified by the [department]office as a child care provider if they provide child care in the person's home for more than ten children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.

(3) A person who is not required to become certified may voluntarily become certified, except for care that is for related children only or on a sporadic basis.

**R430-50-4. [Residential Certificate Application, Renewal, Changes, and Variances.] Fire and Other Health Inspections.**

[~~(1) Each applicant for a new residential certificate shall:~~

- ~~(a) submit a CCL online application;~~
  - ~~(b) submit a copy of a current local fire clearance or a written statement from the local fire authority that a fire inspection is not required;~~
  - ~~(c) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;~~
  - ~~(d) submit a copy of a current local business license or a written statement from the city that a business license is not required;~~
  - ~~(e) complete CCL background checks for covered individuals as required in Section R430-50-8;~~
  - ~~(f) complete CCL new provider training no more than six months before becoming certified; and~~
  - ~~(g) pay any required fees, that are nonrefundable.~~
- (2) Each applicant shall pass a department's inspection of the facility before a new residential certificate or a renewal is issued.]

(3)(1) If the local fire authority states in writing that an applicant for a new residential certificate or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:

- (a) address numbers and letters are readable from the street;
- (b) exit doors operate properly and are well maintained;
- (c) there are no obstructions in exits, aisles, corridors, and stairways;
- (d) there is at least one unobstructed fire extinguisher that is currently charged, serviced, and mounted not more than five feet above the floor;
- (e) there are working smoke detectors that are properly installed on each level of the building; and
- (f) boiler, mechanical, and electrical panel rooms are not used for storage.

(4)(2) If an applicant for a new residential certificate serves food and the local health department states in writing that a kitchen inspection is not required, the [department]office shall verify the applicant's compliance with the following:

- (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
- (b) there is a working thermometer in the refrigerator;
- (c) there is a working stem thermometer available to check cooking and hot hold temperatures;
- (d) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;
- (e) chemicals are stored away from food and food service items;
- (f) food is properly stored, maintained at the proper temperature, and in good condition; and

(g) there is a working handwashing sink in the kitchen.

~~\_\_\_\_\_ (5) Each applicant shall have six months from the time any portion of the application is submitted to finish the residential certificate process. If unsuccessful, the applicant shall reapply. Any resubmission shall include the required documentation, payment of certification fees, and a new inspection of the facility to become certified.~~

~~\_\_\_\_\_ (6) The department may deny an application for a residential certificate if, within the five years preceding the application date, the applicant held a license or a residential 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;~~

~~\_\_\_\_\_ (d) voluntarily closed after an inspection of the facility found a rule violation 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 child care residential certificate expires at midnight on the last day of the month shown on the residential certificate, unless the residential certificate was previously revoked by the department, or voluntarily closed by the provider.~~

~~\_\_\_\_\_ (8) Within 30 to 90 days before a current residential certificate expires, each provider shall submit for renewal:~~

~~\_\_\_\_\_ (a) an online renewal request;~~

~~\_\_\_\_\_ (b) applicable renewal fees;~~

~~\_\_\_\_\_ (c) any previous unpaid fees; and~~

~~\_\_\_\_\_ (d) a copy of a current fire inspection report.~~

~~\_\_\_\_\_ (9) The department may grant a provider who fails to renew their residential certificate by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.~~

~~\_\_\_\_\_ (10) The department may deny renewal of a residential certificate for a provider who is no longer caring for children.~~

~~\_\_\_\_\_ (11) Each provider shall submit a complete application for a new residential certificate at least 30 days before a change of the child care facility's location.~~

~~\_\_\_\_\_ (12) A provider shall submit a complete online changes request to amend an existing residential certificate at least 30 days before any of the following changes:~~

~~\_\_\_\_\_ (a) an increase or decrease of residential certificate capacity, including any change to the amount of usable indoor space where child care is provided;~~

~~\_\_\_\_\_ (b) a change in the name of the program;~~

~~\_\_\_\_\_ (c) a change in the regulation type of the program;~~

~~\_\_\_\_\_ (d) a change in the name of the provider; or~~

~~\_\_\_\_\_ (e) a transfer of business ownership.~~

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

~~\_\_\_\_\_ (14) Only the department may assign, transfer, or amend a residential certificate.~~

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

~~\_\_\_\_\_ (16) Until the department approves a variance each provider shall comply with the existing rules.~~

~~\_\_\_\_\_ (17) If the department approves a variance, the provider shall keep a copy of the written approval on site for review by parents and the department.~~

~~\_\_\_\_\_ (18) The department may grant variances for up to 12 months.~~

~~\_\_\_\_\_ (19) 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.]~~

**R430-50-5. [Rule Noncompliance, Penalties, and Agency Action Reviews.] Immediate Closure.**

~~\_\_\_\_\_ (1) The department may place a program's child care residential certificate 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 child care 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 residential certificate if the child care provider:~~

~~\_\_\_\_\_ (a) fails to meet the conditions of a residential certificate on conditional status;~~

~~\_\_\_\_\_ (b) violates the any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;~~

~~\_\_\_\_\_ (c) provides false or misleading information to the department;~~

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- ~~\_\_\_\_\_ (d) misrepresents information by intentionally altering a residential certificate or any other document issued by the department;~~
- ~~\_\_\_\_\_ (e) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;~~
- ~~\_\_\_\_\_ (f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;~~
- ~~\_\_\_\_\_ (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 an individual from having a residential certificate.~~
- ~~\_\_\_\_\_ (5) Within ten 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) In accordance with Rule R380-600, the [The department]office may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~
- ~~\_\_\_\_\_ (7) Upon receipt of an immediate closure notice, the provider shall give the [department]office the names and mailing addresses of the parents of each enrolled child so the [department can] office may notify the parents of the immediate closure.~~
- ~~\_\_\_\_\_ (8) If there is a severe injury or the death of a child in care, the [department]office may order a child care provider to suspend services and 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) An unlicensed person providing care that requires a license or certificate may be charged with a civil money penalty and a class A misdemeanor unless they:~~
  - ~~\_\_\_\_\_ (a) stop providing child care that requires a license or certificate; or~~
  - ~~\_\_\_\_\_ (b) apply for the appropriate license or certificate within 30 calendar days of notification by the department.~~
- ~~\_\_\_\_\_ (10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may 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 a day as provided in Section 26B-2-409.~~
- ~~\_\_\_\_\_ (12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a residential certificate.~~
- ~~\_\_\_\_\_ (13) The department may deny an application or revoke a residential certificate for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.~~
- ~~\_\_\_\_\_ (14) An applicant or provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.]~~

**R430-50-6. Administration and Children's Records.**

- (1) The provider shall:
  - (a) be at least 18 years old;
  - (b) be considered eligible by [a CCL]an OBP background check before becoming involved with child care;
  - (c) complete the new provider training offered by the [department]office; and
  - (d) complete at least 10 hours of child care training each year, based on the facility's residential certificate date.
- (2) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, welfare, and safety of the public.
- (3) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and maintain responsibility for the operation and management of a child care program.
- (4) The provider shall comply with licensing rules any time a child in care is present.
- (5) The provider shall post their unaltered child care residential certificate on the facility premises in a place readily visible and accessible to the public during business hours.
- (6) The provider shall post a current copy of the [department]office's Parent Guide at the facility for parent review during business hours or give a current copy to each parent.
- (7) The provider shall inform parents and the [department]office of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (8) The provider shall:
  - (a) have liability insurance; or
  - (b) inform parents in writing that the provider does not have liability insurance.
- (9) 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.
- (10) 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) contact name, address, and phone number 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.
- (11) 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) on-site for review by the [department]office.
- (12) 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 foster children and children who are homeless.
- (13) 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]office.
- (14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health and Human Services by the date specified by the [department]office.
- (15) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the [department]office.

**R430-50-7. Personnel and Training Requirements.**

- (1) The provider shall remain present at the home at least 50% of the time each week the program is open for business.
- (2) If the provider is not present, the provider shall ensure that there is at least one covered individual who is 18 years old or older present at the facility when there is a child in care.
- (3) The provider shall ensure that any covered individual caring for the children is supervised, qualified, and trained to:
  - (a) meet the needs of the children as required by this rule; and
  - (b) be in compliance with licensing requirements under Rule R430-50.
- (4) The provider shall ensure that caregivers:
  - (a) are at least 16 years old;
  - (b) are considered eligible by [CCL]OBP background check before becoming involved with child care;
  - (c) complete the 2-1/2 hour preservice training offered by the [department]office before [earring for children;] becoming involved with child care;
  - (d) know and follow any applicable laws and requirements under Rule R430-50; and
  - (e) complete at least ten hours of child care training each year, based on the facility's residential certificate date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.
- (5) The provider shall ensure that any other staff including drivers, cooks, and clerks:
  - (a) are considered eligible by [CCL]OBP background check before becoming involved with child care;
  - (b) complete the 2-1/2 hour preservice training offered by the [department]office before [beginning job duties]becoming involved with child care;
  - (c) are introduced to other staff and to the caregiver's assigned group; and
  - (d) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs.
- (6) The provider shall ensure that volunteers are considered eligible by an OBP[CCL] background check before becoming involved with child care.
- (7) The provider shall submit a background check as required in Section R430-50-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.
- (8) The provider shall ensure that household members who are:
  - (a) 12 to 17 years old are considered eligible by an OBP[CCL] background check; and
  - (b) 18 years old or older are considered eligible by an OBP[CCL] background check that includes fingerprints.
- (9) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan (IFSP) services including physical, occupational, or speech therapists:
  - (a) provide proper identification before having access to the facility or to a child at the facility; and
  - (b) have received the child's parent's permission for services to take place at the facility.
- (10) The provider shall ensure that individuals from law enforcement, Child Protective Services, the [department]office, and any similar entities provide proper identification before having access to the facility or to a child at the facility.

(11) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by the [department]office that includes at least the following topics:

- (a) applicable laws and requirements under Rule R430-50;
- (b) children whose special needs may include disabilities;
- (c) recognizing the signs of homelessness and available assistance;
- (d) building and physical premises safety;
- (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

(f) pediatric first aid and CPR;

(g) emergency preparedness, response, and recovery plan;

(h) prevention of and response to emergencies due to food and allergy reactions;

(i) safe handling and disposal of hazardous materials and bio contaminants;

(j) prevention and control of infectious diseases including immunizations;

(k) administration of medication;

(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth ;

- (m) precautions in transporting children;
- (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and
- (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.

(12) The provider shall ensure that annual child care training includes at least the following topics:

- (a) current [department]office rule Sections R430-50-7 through R430-50-24; and
- (b) each topic listed in Subsections R430-50-7(11)(a) through (o).

(13) The provider shall ensure that at least half of the required annual training is interactive.

(14) The provider shall ensure that at least one covered individual with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:

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

(15) The provider shall ensure that CPR certification includes hands-on testing.

(16) The provider shall ensure that current pediatric first aid and CPR certification records for each covered individual required by this rule to have them are on-site for review by the department.

#### **R430-50-8. Background Checks.**

(1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:

- (a) associate that individual with their facility; or
- (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.

(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:

- (a) have the individual submit an online background check [form]application and fingerprints for individuals age 1[8]6 years old and older, except for individuals 12-17 years old who are listed as household members;
- (b) authorize the individual's background check through the CCL provider's portal;
- (c) pay any required fees; and
- (d) receive written notice from CCL that the individual is eligible, only allow the individual to be involved with childcare if they have an eligible OBP background check determination.

(3) To keep their background check eligibility current, the provider shall also ensure that a new background check [form]application and fingerprints are submitted and authorized and fees are paid for any covered individual who has:

- (a) resided outside of Utah since their last background check was completed;
- (b) not been associated with an active, CCL approved child care facility within the past 180 days; or
- (c) turned 18 years old and has not previously submitted fingerprints for [a-CCL]an OBP background check, except when the 18-year-old has previously submitted fingerprints for [a-CCL]an OBP background check, then only a new background check [form]application will be required.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:

- (a) ensure that an online background check [form]application is submitted;
- (b) authorize the child's background check through the CCL provider's portal; and
- (c) pay any required fees.

(5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.

(6) If the provider submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.

(7) The department may consider a covered individual not eligible for any of the following reasons:

- (a) LIS supported findings that occurred no more than 15 years from the date on which the application was submitted;
  - (b) the covered individual's name appears on the Utah or national sex offender registry;
  - (c) the covered individual refuses to consent to the criminal background check;
  - (d) the covered individual knowingly makes a false statement in connection with their background check;
  - (e) any felony convictions; or
  - (f) for any of the reasons listed under Subsection R430-50-8(8).
- (8) The department may also consider a covered individual not eligible for any of the following convictions regardless

of severity:

- (a) child pornography;
- (b) sexual enticing of a minor;
- (c) voyeurism;
- (d) a sexual exploitation act;
- (e) pornographic material or performance;
- (f) any crime against an individual;
- (g) providing dangerous weapons or fire arms to a minor; or
- (h) driving under the influence while a child is present in the vehicle.

(9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the ~~(CCL)OBP~~ background check was conducted.

(10) If ~~[a-CCL]an OBP~~ finds the provider is not eligible, the department may suspend or deny their license until the reason for the background check finding is resolved.

(11) If ~~(CCL)OBP~~ finds a covered individual is not eligible by ~~(CCL)OBP~~, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.

(12) If ~~(CCL)OBP~~ denies a covered individual a license or employment based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety, ~~[the covered individual]~~ they may appeal the information to the Department of Public Safety.

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

(14) The Executive Director of the department or ~~[their designee]~~ the director of the OBP may overturn ~~[a-CCL]an OBP~~ background check decision if they determine that the nature of the background finding or mitigating circumstances do not pose a risk to children.

#### **R430-50-9. Facility.**

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.

(2) The ~~[department]~~ provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:

- (a) by children;
  - (b) for the care of children; or
  - (c) to store materials for children.
- (3) The ~~[department]~~ provider may not include the following areas when measuring indoor space for children's use:
- (a) bathrooms;
  - (b) closets;
  - (c) hallways;
  - (d) lobbies; and
  - (e) entryways.

(4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the residential certificate, except when providing after school child care for up to two additional school-age children.

(5) 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 five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.

(7) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.

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

(9) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(10) The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each nondiapered child in care.

(11) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

(12) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:

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

(c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is locked and that separates the pool from any other areas on the premises.

(13) If there is a hot tub with water in it on the premises, the provider shall make the hot tub inaccessible to children by:

- (a) keeping the hot tub locked with a properly working cover; or
- (b) enclosing the hot tub within at least a four-foot-high fence or solid barrier that is locked and that separates the hot tub from any other areas on the premises.

(14) 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.

(15) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.

(16) If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the ~~department~~ office may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when the following conditions are met:

- (a) there is a signed rental or lease agreement for the rented area;
- (b) there is a separate mailing address for the rented area;
- (c) there is a separate entrance for the child care program;
- (d) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.

(17) If there is an outdoor area used by children in care, the provider shall comply with Subsections R430-50-9(19) through R430-50-9(24).

(18) The provider shall ensure that the outdoor area is safely accessible to children.

(19) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.

(20) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:

- (a) has a speed of 25 miles per hour or higher; or
- (b) has more than two lanes of traffic.

(21) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:

- (a) barbed wire that is within 30 feet of the children's play area;
- (b) livestock on or within 50 yards of the property line;
- (c) dangerous machinery, including farm equipment, on or within 50 yards of the property line;
- (d) a drop-off of more than five feet on or within 50 yards of the property line; and
- (e) a water hazard, including a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.

(22) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(23) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.

#### **R430-50-10. Ratios and Group Size.**

(1) The provider shall maintain at least one caregiver for up to eight children in care.

(2) When caring for children younger than two years old, the provider shall ensure that:

- (a) there is at least one caregiver for every three children younger than two years old;
- (b) each caregiver cares for no more than two children younger than 18 months old; and
- (c) there are at least two caregivers if more than three children younger than two years old are present and there are more than six children in care.

(3) The provider shall include the provider's and employees' children age four years old or older in care:

- (a) in the group size when the parent of the child is working at the facility; and
- (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.

**R430-50-11. Child Supervision and Security.**

- (1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:
  - (a) a caregiver is inside the home when a child in care is inside the home;
  - (b) a caregiver is in the outdoor area when a child younger than five years old is in the outdoor area;
  - (c) caregivers know the number of children in their care at any time~~[-and]~~
  - (d) caregivers' attention is focused on the children and not on caregivers' personal interests~~[-]; and~~
  - (e) each child receives in-person interaction with a caregiver at least every 15 minutes.
- (2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
  - (a) the provider or an eligible adult is physically present and available as needed; and
  - (b) they are not volunteers.
- (3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.
- (4) The provider shall ensure that guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.
- (5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.
- (6) The provider may allow school-age children to go outdoors while caregivers are indoors if:
  - (a) a caregiver can hear the children when children are outdoors; and
  - (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.
- (7) The provider shall ensure that a caregiver monitors each sleeping infant by:
  - (a) placing each infant to sleep within the sight and hearing of a caregiver; or
  - (b) personally observing each sleeping infant at least once every 15 minutes.
- (8) The provider may allow a child to participate in supervised offsite activities without a caregiver if:
  - (a) the provider has prior written permission from the child's parent for the child's participation; and
  - (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.
- (9) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
- (10) To maintain security and supervision of children, the provider shall ensure that:
  - (a) each child is signed in and out;
  - (b) only parents or individuals with written authorization from the parent may sign-out a child;
  - (c) photo identification is required if the individual signing the child out is unknown to the provider;
  - (d) individuals signing children in and out use identifiers, including 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 the child's parent if school-age children sign themselves in or out.
- (11) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
  - (a) the individual giving verbal authorization; and
  - (b) the individual picking up the child.

**R430-50-12. Child Guidance and Interaction.**

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform parents, children, and those who interact with the children of the facility's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.
- (5) The provider shall ensure that interactions with the children do not include:
  - (a) any form of corporal punishment or any action that produces physical pain or discomfort including 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]~~mistreatment;
  - (e) forcing or withholding food, rest, or toileting; or
  - (f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.

(6) Any individual 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 Section 80-2-602.

**R430-50-13. Child Safety and Injury Prevention.**

(1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.

(3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.

(4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.

(5) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.

(6) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.

(7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.

(8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.

(9) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:

- (a) inaccessible to children;
- (b) used according to manufacturer instructions;
- (c) stored in containers labeled with the contents of the container; and
- (d) disposed of properly.

(10) The provider shall ensure that the following items are inaccessible to children:

- (a) matches or cigarette lighters;
- (b) open flames;
- (c) hot wax or other hot substances; and
- (d) when in use, portable space heaters, wood burning stoves, and fireplaces.

(11) The provider shall ensure that the following items are inaccessible to children:

(a) live electrical wires; and  
(b) for children younger than five years old, electrical outlets and surge protectors without protective caps or safety devices when not in use.

(12) Unless used and stored as allowed by law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:

- (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
- (b) stored unloaded and separate from ammunition.

(13) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in facility vehicles any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.

(16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.

(17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.

(18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.

(19) The provider shall ensure that infant walkers with wheels are inaccessible to children.

(20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, not used:

- (a) in the facility or any other building when a child is in care;
- (b) in any vehicle that is being used to transport a child in care;
- (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or
- (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

**R430-50-14. Emergency Preparedness, Response, and Recovery.**

(1) The provider shall have an emergency preparedness, response, and recovery plan that:

(a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;

- (b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;
- (c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health; and
- (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the home's street address and emergency numbers, including at least fire, police, and poison control, near the telephone or in an area clearly visible to anyone needing the information.
- (3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.
- (4) The provider shall conduct fire evacuation drills every six months and make sure drills include a complete exit of each child, staff, and volunteers from the building.
- (5) The provider shall conduct drills for disasters other than fires at least once every 12 months.
- (6) The provider shall vary the days and times when fire and other disaster drills are held.
- (7) The provider shall:
  - (a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;
  - (b) ensure the report has the signatures of the caregivers involved, the provider, and the individual picking up the child;
- and
- (c) if school-age children sign themselves out of the facility, send a copy of the report to the parent on the day following the occurrence.
- (8) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.
- (9) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:
  - (a) call emergency personnel immediately;
  - (b) contact the parent after emergency personnel are called; and
  - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (10) 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] office within the next business day of the incident; or
  - (b) contact the [department] office within the next business day and submit a completed accident report form within five business days of the incident.
- (11) If the provider must leave the children due to an emergency and a background checked covered individual who is at least 18 years old or older is not available to stay with the children, the provider may leave the children in the care of an emergency substitute who:
  - (a) is at least 18 years old;
  - (b) substitutes the caregiver for the minimum time possible and for less than one business day; and
  - (c) signs a written background statement before being left alone with the children.
- (12) Before leaving for the emergency, the provider shall obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:
  - (a) has not been convicted of a felony;
  - (b) has not been convicted of a crime against a person;
  - (c) is not listed on the state or national sex offender registry; and
  - (d) is not being investigated for abuse or neglect by any federal, state, or local government agency.
- (13) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to the [department]OBP for review.
- (14) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

**R430-50-15. Health and Infection Control.**

- (1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:
  - (a) walls and flooring clean and free of spills, dirt, and grime;
  - (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;
  - (c) surfaces free of rotting food or a build-up of food;
  - (d) the building and grounds free of a build-up of litter, trash, and garbage;
  - (e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized;
  - (f) the facility 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) The provider shall clean and sanitize any toys and materials used by children:
  - (a) at least once a week or more often if needed;
  - (b) after being put in a child's mouth and before another child plays with the toy; and
  - (c) after being contaminated by a body fluid.
- (4) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize highchair trays before each use.



- (6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.
- (7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.
- (8) The provider shall clean and sanitize potty chairs after each use.
- (9) The provider shall keep toilet paper in a dispenser that is accessible to children.
- (10) The provider shall ensure that staff and volunteers wash their hands thoroughly with soap and running water:
  - (a) upon arrival;
  - (b) before handling or preparing food or bottles;
  - (c) before and after eating meals and snacks or feeding a child;
  - (d) after using the toilet or helping a child use the toilet;
  - (e) after contact with a body fluid;
  - (f) when coming in from outdoors; and
  - (g) after cleaning up or taking out garbage.
- (11) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.
- (12) The provider shall ensure that children wash their hands thoroughly with soap and running water:
  - (a) upon arrival;
  - (b) before and after eating meals and snacks;
  - (c) after using the toilet;
  - (d) after contact with a body fluid;
  - (e) before using a water play table or tub; and
  - (f) when coming in from outdoors.
- (13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.
- (14) The provider shall ensure that if cloth towels are used, cloth towels are:
  - (a) not shared; and
  - (b) washed daily.
- (15) The provider shall store personal hygiene items, including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.
- (16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:
  - (a) labeled with each child's name or individually identified; and
  - (b) not shared, or washed and sanitized before being used by another child.
- (17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.
- (18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:
  - (a) washed and dried; or
  - (b) placed in a leakproof container that is labeled with the child's name and returned to the parent.
- (19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:
  - (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, including 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, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
  - (g) wash their hands after cleaning up the body fluid.
- (20) If a child becomes ill while in care, the provider shall:
  - (a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and
  - (b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.
- (21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite, on the day the illness is discovered.
- (22) If 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]office on the day the illness is discovered.
- (23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that individuals with an infectious disease or showing symptoms including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

**R430-50-16. Food and Nutrition.**

- (1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.

- (2) If the provider supplies the food for children's meals or snacks, the provider shall ensure that:
- (a) the meal service meets local health department food service rules;
  - (b) the foods that are served 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 uses the CACFP meal pattern requirements, the standard [department]office-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;
  - (d) the current week's menu is posted for review by parents and the [department]office; and
  - (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.
- (3) The provider shall ensure that the individual who serves food to children:
- (a) is aware of the children in their assigned group who have food allergies or sensitivities; and
  - (b) ensures that the children are not served the food or drink they are allergic or sensitive to.
- (4) The provider may not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food including a cracker, that may be placed directly in a child's hand.
- (5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:
- (a) labeled with the child's name;
  - (b) refrigerated if needed; and
  - (c) consumed only by that child.

**R430-50-17. Medications.**

- (1) The provider shall make medications inaccessible to children in care.
- (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.
- (3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications are:
  - (a) labeled with the child's full name;
  - (b) are stored in the original or pharmacy container; and
  - (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 provider shall ensure that the medication permission form includes at least:
  - (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 provider shall ensure that instructions for administering the medication include at least:
  - (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 provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
  - (a) written; or
  - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
  - (a) washes their hands;
  - (b) check the medication label to confirm the child's name if the parent supplied the medication;
  - (c) checks 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) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:
  - (a) the date, time, and dosage of the medication given;
  - (b) any error in administering the medication or adverse reactions; and
  - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the time a child requires medication, if the provider chooses not to administer medication as instructed by the parent.

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

**R430-50-18. Activities.**

(1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.

(2) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.

(3) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.

(4) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is:

(a) not allowed for children zero to 17 months old;

(b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and

(c) planned to address the needs of children five to 12 years old.

(5) If swimming activities are offered or if wading pools are used, the provider shall ensure that:

(a) the parent gives permission before their child in care uses the pool;

(b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;

(c) diapered children wear swim diapers when they are in the pool;

(d) wading pools are emptied and sanitized after use by each group of children;

(e) if the pool is over four feet deep, there is 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

(f) lifeguards and pool personnel do not count toward the caregiver-to-child ratio.

(6) If the provider offers offsite activities, the provider shall ensure that:

(a) the parent gives written consent before each activity;

(b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;

(c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;

(d) children's names are not used on nametags, t-shirts, or in other visible ways; and

(e) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.

(7) The provider shall ensure that a caregiver with the children takes the emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:

(a) the child's name;

(b) the parent's name and phone number;

(c) the name and phone number of an individual to notify if an emergency happens and 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.

**R430-50-19. Play Equipment.**

(1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.

(2) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.

(3) Except for trampolines, the provider shall ensure that stationary play equipment with a designated play surface that is 18 inches high or higher:

(a) has a surrounding three-foot use zone, free of hard objects or surfaces, that extends from the outermost edge of the equipment;

(b) has cushioning that covers the entire required use zone; and

(c) is stable or securely anchored.

(4) The [department]office may consider a trampoline on the premises is inaccessible to children in care if the trampoline:

(a) is enclosed behind a locked fence or safety net that is at least three feet high;

(b) has no jumping mat; or

(c) is placed upside down.

(5) The provider shall ensure that each accessible trampoline without a safety net enclosure has at least a six-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.

(6) The provider shall ensure that each accessible trampoline with a properly installed, used as specified by the manufacturer, and in good repair safety net enclosure has at least a three-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.

(7) The provider shall ensure that each accessible trampoline with or without a safety net enclosure is placed over:

- (a) grass;
- (b) a six-inch deep cushioning; or
- (c) other commercial cushioning.
- (8) The provider shall ensure that cushioning for each accessible trampoline covers the entire required use zone.
- (9) The provider shall ensure that each accessible trampoline has:
  - (a) no ladders or other objects within the use zone a child could use to climb on the trampoline; and
  - (b) shock absorbing pads that completely cover the trampoline springs, hooks, and frame.
- (10) The provider shall receive written permission from a child's parent or legal guardian before that child uses the trampoline.
  - (11) The provider shall ensure that if a child uses an accessible trampoline:
    - (a) a caregiver is at the trampoline supervising;
    - (b) only one person at a time uses the trampoline;
    - (c) no child in care is allowed to do somersaults or flips on the trampoline;
    - (d) no one is permitted under the trampoline while the trampoline is in use; and
    - (e) only school-age children in care are allowed to use a trampoline.
  - (12) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.
  - (13) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.
  - (14) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.
  - (15) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

**R430-50-20. Transportation.**

- (1) For each child being transported by the provider, the provider shall have a transportation permission form:
  - (a) signed by the parent; and
  - (b) on-site for review by the ~~department~~ office.
- (2) The provider shall ensure that each vehicle used for transporting children:
  - (a) is enclosed with a roof or top;
  - (b) is equipped with safety restraints;
  - (c) has a current vehicle registration;
  - (d) is maintained in a safe and clean condition; and
  - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
  - (a) appropriate for the age and size of each child who is transported, as required by Utah law;
  - (b) properly installed; and
  - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
  - (a) is at least 18 years old;
  - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
  - (c) has with them the emergency contact information outlined in Subsection R381-50-18(7) for each child being transported;
  - (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;
  - (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
  - (f) never leaves a child in the vehicle unattended by an adult;
  - (g) ensures that children stay seated while the vehicle is moving;
  - (h) never leaves the keys in the ignition when not in the driver's seat; and
  - (i) ensures that the vehicle is locked during transport.
- (5) If 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 caregiver goes with the children and actively supervises the children;
  - (c) the caregiver-to-child ratio is maintained; and
  - (d) a caregiver with the children has written emergency contact information outlined in Subsection R381-50-18(7) and releases for the children being transported.
- (6) The provider shall:
  - (a) have transport liability insurance; or
  - (b) inform parents in writing that the provider does not have transport liability insurance.

**R430-50-21. Animals.**

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.

- (2) The provider shall ensure that there is 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 individual.
- (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.
- (6) If school-age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.
- (8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by the ~~department~~ office.

**R430-50-22. Rest and Sleep.**

- (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.
- (2) The provider shall ensure that each crib:
  - (a) has a tight-fitting mattress;
  - (b) has slats spaced no more than 2-3/8 inches apart;
  - (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;
  - (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and
  - (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.
- (3) The provider shall ensure that sleeping equipment does not block exits.
- (4) The provider shall ensure that sleeping equipment and bedding items are:
  - (a) clearly assigned to one child; and
  - (b) laundered as needed, but at least once a week, and before use by another child.
- (5) Before each use the provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual.

**R430-50-23. Diapering.**

- (1) If the provider accepts children who wear diapers, the provider shall ensure that each child's diaper is:
  - (a) checked at least once every two hours;
  - (b) promptly changed if wet or soiled; and
  - (c) checked as soon as a sleeping child awakens.
- (2) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.
- (3) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (4) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (5) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.
- (6) The provider shall ensure that caregivers place wet and soiled disposable diapers:
  - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
  - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
  - (c) in a container that is inaccessible to children.
- (7) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.
- (8) If cloth diapers are used, the provider shall:
  - (a) not rinse cloth diapers at the facility; and
  - (b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or place the cloth diapers in a leakproof diapering service container.

**R430-50-24. Infant and Toddler Care.**

- (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every [20]15 minutes.
- (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.
- (3) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions including hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.

- (4) For their healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.
- (5) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.
- (6) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.
- (7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.
- (8) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.
- (9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.
- (10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual infant and toddlers use is:
- (a) labeled with the child's name;
  - (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;
  - (c) refrigerated if needed; and
  - (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.
- (11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that bottles are not propped.
- (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.
- (13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.
- (14) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.
- (15) The provider shall ensure that infants sleep in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that infants are not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (16) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (17) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

**KEY: child care facilities, residential certification**

**Date of Last Change: November 9, 2023**

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**Authorizing, and Implemented or Interpreted Law: 26B-2-402**

**R430. Health and Human Services, Residential Child Care Licensing.**

**R430-90. Licensed Family Child Care.**

**R430-90-1. Legal Authority and Purpose.**

- (1) This rule is enacted and enforced in accordance with Section 26B-2-402.
- (2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a license to provide child care.

**R430-90-2. Definitions.**

- (1) Definitions in this rule are additionally found in Rule R380-600.  
[~~\_\_\_\_\_ (1) "Applicant" means a person or business who has applied for a new or a renewal of a license from the department.~~]
- (2) "Background Finding" means information in a background check that [~~Child Care Licensing~~] the OBP uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.
- (4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.
- (5) "Business Days and Hours" means the days of the week and times the facility is open for business.
- (6) [~~"Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:~~
  - (a) count in the caregiver to child ratio;
  - (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
  - (c) supervise children.]  
"CCL" means Child Care Licensing in the Division of Licensing and Background checks under the Department of Health and Human Services that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.
- (7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- (8) " Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.
- [~~\_\_\_\_\_ (9) "CCL" means the Child Care Licensing Program under the Office of Licensing that is delegated with the responsibility to enforce the rules under Titles R381 and R430.~~]
- (10) "Child Care" means continuous care and supervision of one or more qualifying children that is:
  - (a) in place of care ordinarily provided by a parent in the parent's home;
  - (b) for less than 24 hours a day; and
  - (c) for direct or indirect compensation.
- (11) "Child Care Program" means a person or business that offers child care.
- (12) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.
- [~~\_\_\_\_\_ (13) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with licensing rules has not been maintained.~~]
- (1[4]3) "Covered Individual" means any of the following individuals involved with a child care program:
  - (a) an owner;
  - (b) an employee;
  - (c) a caregiver;
  - (d) a volunteer, except a parent of a child enrolled in the child care program;
  - (e) an individual age 12 years old or older who resides in the facility; and
  - (f) anyone who has unsupervised contact with a child in care.
- (1[5]4) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.
- (1[6]5) "Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.
- [~~\_\_\_\_\_ (17) "Department" means the Utah Department of Health and Human Services.~~]
- (1[8]6) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.
- (1[9]7) "Eligible" means that there were no findings in a covered individual's background check that could prohibit that covered individual from being involved with child care.
- [~~\_\_\_\_\_ (20) "Emotional Abuse" means behavior that could harm a child's emotional development, including threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.~~]
- ([24]18) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine 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.
- ([22]19) "Facility" means a child care program or the premises approved by the [~~department~~] office to be used for child care.

- (~~23~~20) "Group" means the children who are assigned to and supervised by one or more caregivers.
- (~~24~~21) "Group Size" means the total number of children in a group.
- (~~25~~22) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- (~~26~~23) "Health Care Provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.
- (~~27~~24) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (~~28~~25) "Inaccessible" means out of reach of children by being:
- locked, including in a locked room, cupboard, or drawer;
  - secured with a child safety device, including a child safety cupboard lock or doorknob device;
  - behind a properly secured child safety gate;
  - located at least 36 inches above the floor; or
  - if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.
- (~~29~~26) "Infant" means a child who is younger than 12 months old.
- (~~30~~27) "Infectious Disease" means an illness that is capable of being spread from one individual to another.
- (~~31~~28) "Involved with Child Care" means to do any of the following at or for a child care program:
- care for or supervise children;
  - volunteer;
  - own, operate, direct;
  - reside;
  - count in the caregiver-to-child ratio; or
  - have unsupervised contact with a child in care.
- (~~32~~29) "License" means a license issued by the ~~department~~office to provide child care services.
- (~~33~~30) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.
- (~~34~~31) "LIS Supported Finding" means background check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the ~~department~~OBP.
- (32) "OBP" means the Office of Background Processing in the Division of Licensing and Background Checks under the Department of Health and Human Services.
- (~~35~~33) "Older Toddler" means a child age 18 through 23 months old.
- (~~36~~34) "Over-the-Counter Medication" means medication that can be bought without a written prescription including herbal remedies, vitamins, and mineral supplements.
- (~~37~~35) "Parent" means the parent or legal guardian of a child in care.
- [~~38) "Physical Abuse" means causing nonaccidental physical harm to a child.~~]
- (~~39~~36) "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.
- (~~40~~37) "Preschooler" means a child age two through four years old.
- [~~41) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~]
- (~~42~~38) "Provider Designee" means the adult delegated by the provider to take the provider's responsibility in the provider's absence.
- (~~43~~39) "Qualifying Child" means:
- a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
  - a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver; or
  - a child who is younger than four years old and is the child of the provider or a caregiver.
- (~~44~~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.
- (~~45~~41) "Residential Child Care" means care that takes place in a child care provider's home.
- (~~46~~42) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (~~47~~43) "School-Age Child" means a child age five through 12 years old.
- [~~48) "Sexual Abuse" means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.~~]
- (~~49~~44) "Sexually Explicit Material" means any depiction of actual or simulated sexual~~[ly explicit]~~ conduct.
- (~~50~~45) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
- (~~51~~46) "Stationary Play Equipment" means equipment including 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 sandbox;
  - a stationary circular tricycle;
  - a sensory table; or
  - a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.



([52]47) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled including:

- (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
- (b) hardware that forms a hook or leaves a gap or space between components including a protruding open 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.

([53]48) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by [CCL]OBP.

([54]49) "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.

([55]50) "Working Days" means the days of the week the department is open for business.

([56]51) "Younger Toddler" means a child age 12 through 17 months old.

### **R430-90-3. License Required.**

(1) An individual shall obtain a family child care provider license from the [department]office if they provide care:

- (a) in the provider's home;
- (b) in the absence of the child's parent;
- (c) for nine or more unrelated children;
- (d) for four or more hours a day;
- (e) for each individual child for less than 24 hours a day;
- (f) on a regularly scheduled, ongoing basis; and
- (g) for direct or indirect compensation.

(2) A person who does not meet licensing requirements may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.

(4) A residential child care provider may not be licensed for more than two facilities at the same time.

(5) An individual shall be licensed by the [department]office as a child care provider if they provide child care in the person's home for more than ten children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.

### **R430-90-4. [~~License Application, Renewal, Changes, and Variances.~~] Fire and Other Health Inspections**

~~(1) Each applicant for a new child care license shall:~~

- ~~(a) submit a CCL online application;~~
- ~~(b) submit a copy of a current local fire clearance or a written statement from the local fire authority that a fire inspection is not required;~~
- ~~(c) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;~~
- ~~(d) submit a copy of a current local business license or a written statement from the city that a business license is not required;~~
- ~~(e) complete CCL background checks for covered individuals as required in Section R430-90-8;~~
- ~~(f) complete CCL new provider training no more than six months before becoming licensed; and~~
- ~~(g) pay any required fees, which are nonrefundable.~~

~~(2) Each applicant shall pass a department's inspection of the facility before a new license or a renewal is issued.]~~

([3]1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, the [department]office shall verify the applicant's compliance with the following:

- (a) address numbers and letters are readable from the street;
- (b) exit doors operate properly and are well maintained;
- (c) there are no obstructions in exits, aisles, corridors, and stairways;
- (d) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;
- (e) there are working smoke detectors that are properly installed on each level of the building; and
- (f) boiler, mechanical, and electrical panel rooms are not used for storage.

([4]2) If an applicant for a new license serves food and the local health department states in writing that a kitchen inspection is not required, the [department]office shall verify the applicant's compliance with the following:

- (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
- (b) there is a working thermometer in the refrigerator;
- (c) there is a working stem thermometer available to check cooking and hot hold temperatures;
- (d) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;
- (e) chemicals are stored away from food and food service items;
- (f) food is properly stored, maintained at the proper temperature, and in good condition; and

- (g) there is a working handwashing sink in the kitchen.
- [~~(5)(a) Each applicant for a new license shall complete the licensing process within six months from the time any portion of the application is submitted to the department.~~
- ~~(b) If successful licensure is not achieved by the applicant within six months, the applicant shall reapply.~~
- ~~(c) Any resubmission shall include the required documentation and payment of licensing fees.~~
- ~~(d) The department shall conduct a new inspection of the facility before issuing a license.~~
- ~~(6) The department may deny an application for a license if, within the five 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;~~
- ~~(d) voluntarily closed after an inspection of the facility found a rule noncompliance 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 child care 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, each provider shall submit for renewal:~~
- ~~(a) an online renewal request;~~
- ~~(b) applicable renewal fees;~~
- ~~(c) any previous unpaid fees; and~~
- ~~(d) a copy of a current fire inspection report.~~
- ~~(9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.~~
- ~~(10) The department may deny renewal of a license for a provider who is no longer caring for children.~~
- ~~(11) Each provider shall submit a complete application for a new license at least 30 days before a change of the child care facility's location.~~
- ~~(12) A provider shall submit a complete online changes request 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 child care is provided;~~
- ~~(b) a change in the name of the program;~~
- ~~(c) a change in the regulation type of the program;~~
- ~~(d) a change in the name of the provider; or~~
- ~~(e) a transfer of business ownership.~~
- ~~(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) Only the department may assign, transfer, or amend a license.~~
- ~~(15)(a) If an applicant or provider cannot comply with a rule under Rule R381-90 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.~~
- [~~(b) The department may:~~
- ~~(i) require additional information before acting on a variance request; and~~
- ~~(ii) impose health and safety requirements as a condition of granting a variance.~~
- ~~(c) Each provider shall comply with the existing Rule R381-90 unless the department approves a variance.~~
- ~~(d) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the department.~~
- ~~(e) The department may grant variances for up to 12 months.~~
- ~~(f) The department may revoke a variance if:~~
- ~~(i) the provider is not meeting the intent of the rule as stated in their approved variance;~~
- ~~(ii) the provider fails to comply with the conditions of the variance; or~~
- ~~(iii) a change in statute, rule, or case law affects the basis for the variance.]~~

**R430-90-5. [Rule Noncompliance, Penalties, and Agency Action Reviews.] Immediate Closure.**

- [~~(1) The department may place a program's child care license on a conditional status for the following causes:~~
- ~~(a) chronic, ongoing noncompliance with rules;~~
- ~~(b) unpaid fees; or~~
- ~~(c) a serious rule noncompliance 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 child care 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 child care 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) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;~~
- ~~\_\_\_\_\_ (f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;~~
- ~~\_\_\_\_\_ (g) commits a serious rule noncompliance 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 an individual from having a license.~~

~~\_\_\_\_\_ (5) Within ten 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)1) In accordance with Rule R380-600, the [The department]office may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.~~

~~\_\_\_\_\_ (7)2) 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]office [can]may notify the parents of the immediate closure.~~

~~\_\_\_\_\_ (8)3) If there is a severe injury or the death of a child in care, the department may order a child care provider to suspend services and prohibit new enrollments, pending a review by the DHHS Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.~~

~~\_\_\_\_\_ (9) An unlicensed person providing care that requires a license or certificate may be charged with a civil money penalty and a class A misdemeanor unless they:~~

- ~~\_\_\_\_\_ (a) stop providing child care that requires a license or certificate; or~~
- ~~\_\_\_\_\_ (b) apply for the appropriate license or certificate within 30 calendar days of notification by the department.~~

~~\_\_\_\_\_ (10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may issue a cease and desist order.~~

~~\_\_\_\_\_ (11) A noncompliance of any rule is punishable by an administrative civil money penalty of up to \$5,000 a day as provided in Section 26B-2-409.~~

~~\_\_\_\_\_ (12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.~~

~~\_\_\_\_\_ (13) 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 checks, civil money penalties, and other fees assessed by the department.~~

~~\_\_\_\_\_ (14) An applicant or provider may request an agency review for any department decision within ten working days of being informed in writing of the decision.]~~

#### **R430-90-6. Administration and Children's Records.**

- (1) The provider shall:
  - (a) be at least 18 years old;
  - (b) be considered eligible by ~~[a CCL]~~an OBP background check before becoming involved with child care;
  - (c) complete the new provider training offered by the ~~[department]office~~; and
  - (d) complete at least 20 hours of child care training each year, based on the facility's license date.
- (2) 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.
- (3) 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.
- (4) The provider shall comply with licensing rules any time a child in care is present.
- (5) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public during business hours.
- (6) The provider shall post a current copy of the ~~[department]office's~~ Parent Guide at the facility for parent review during business hours or give a current copy to each parent.
- (7) The provider shall inform parents and the ~~[department]office~~ of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (8) The provider shall:
  - (a) have liability insurance; or
  - (b) inform parents in writing that the provider does not have liability insurance.
- (9) 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.
- (10) 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.
- (11) 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) on-site for review by the [department]office.
- (12) 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 foster children and children who are homeless.
- (13) 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]office.
- (14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health and Human Services by the date specified by the [department]office.
- (15) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the [department]office.

#### **R430-90-7. Personnel and Training Requirements.**

- (1) The provider or the provider designee shall be present at the home when a child is in care.
- (2) The provider shall ensure that, before being left alone with the children, the provider designee:
  - (a) completes the [department]office's new provider training; and
  - (b) has current first aid and pediatric CPR certifications.
- (3) The provider shall ensure that any covered individual caring for the children is supervised, qualified, and trained to:
  - (a) meet the needs of the children as required by this rule; and
  - (b) be in compliance with licensing requirements under Rule R430-90.
- (4) The provider shall ensure that caregivers:
  - (a) are at least 16 years old;
  - (b) are considered eligible by [a-CCL]an OBP background check before becoming involved with child care;
  - (c) complete the 2-1/2 hour preservice training offered by the [department]office before [earing for children]becoming involved with child care;
  - (d) know and follow any applicable laws and requirements under Rule R430-90;
  - (e) are introduced to other staff and to the caregiver's assigned group of children;
  - (f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and
  - (g) complete at least 20 hours of child care training each year, based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year.
- (5) The provider shall ensure that any other staff including drivers, cooks, and clerks:
  - (a) are considered eligible by [a-CCL]an OBP background check before becoming involved with child care;
  - (b) complete the 2-1/2 hour preservice training offered by the [department]office [before beginning job duties] becoming involved with child care; and
  - (c) know and follow any applicable laws and requirements under Rule R430-90.
- (6) The provider shall ensure that volunteers are considered eligible by [a-CCL]an OBP background check before becoming involved with child care.
- (7) The provider shall submit a background check as required in Section R430-90-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.
- (8) The provider shall ensure that household members who are:
  - (a) 12 to 17 years old are considered eligible by [a-CCL]an OBP background check; and
  - (b) 18 years old or older are considered eligible by [a-CCL]an OBP background check that includes fingerprints.
- (9) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan (IFSP) services including physical, occupational, or speech therapists:
  - (a) provide proper identification before having access to the facility or to a child at the facility; and

(b) have received the child's parent's permission for services to take place at the facility.

(10) The provider shall ensure that individuals from law enforcement, Child Protective Services, the [department]office, and any similar entities provide proper identification before having access to the facility or to a child at the facility.

(11) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by the [department]office which includes at least the following topics:

- (a) applicable laws and requirements under Rule R430-90;
- (b) children with special needs;
- (c) recognizing the signs of homelessness and available assistance;
- (d) building and physical premises safety;
- (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

(f) pediatric first aid and CPR;

(g) emergency preparedness, response, and recovery plan;

(h) prevention of and response to emergencies due to food and allergy reactions;

(i) safe handling and disposal of hazardous materials and biocontaminants;

(j) prevention and control of infectious diseases including immunizations;

(k) administration of medication;

(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;

- (m) precautions in transporting children;
- (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and
- (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.

(12) The provider shall ensure that annual child care training includes at least the following topics:

- (a) current [department]office rule Sections R430-90-7 through R430-90-24;
- (b) children with special needs;
- (c) recognizing the signs of homelessness and available assistance;
- (d) building and physical premises safety;
- (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

(f) pediatric first aid and CPR;

(g) emergency preparedness, response, and recovery plan;

(h) prevention of and response to emergencies due to food and allergy reactions;

(i) safe handling and disposal of hazardous materials and biocontaminants;

(j) prevention and control of infectious diseases including immunizations;

(k) administration of medication;

(l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;

- (m) precautions in transporting children;
- (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and
- (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.

(13) The provider shall ensure that at least half of the required annual training is interactive.

(14) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by the [department]office and includes the following:

- (a) training topic;
- (b) date of the training;
- (c) name of the individual or organization that presented the training;
- (d) whether the training was interactive or not; and
- (e) total hours or minutes of training.

(15) The provider shall ensure that at least one covered individual with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:

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

(16) The provider shall ensure that CPR certification includes hands-on testing.

(17) The provider shall ensure that the following records for each caregiver and volunteer are on-site for review by the [department]office:

- (a) the date of initial employment or association with the program;
- (b) a current pediatric first aid and CPR certification, if required in this rule; and
- (c) a six-week record of the times worked each day.

#### **R430-90-8. Background Checks.**

- (1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:
  - (a) associate that individual with their facility; or
  - (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
- (2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:
  - (a) require the individual to submit an online background check ~~[form]~~ application and fingerprints for individuals age 18 years old and older, except for individuals 12-17 years old who are listed as household members;
  - (b) authorize the individual's background check through the CCL provider's portal;
  - (c) pay any required fees; and
  - (d) ~~[receive written notice from CCL that the individual is eligible.]~~ only allow the individual to be involved with childcare if they have an eligible OBP background check determination.
- (3) To keep their background check eligibility current, the provider shall also ensure that a new background check ~~[form]~~ application and fingerprints are submitted and authorized and fees are paid for any covered individual who has:
  - (a) resided outside of Utah since their last background check was completed;
  - (b) not been associated with an active, CCL approved child care facility within the past 180 days; or
  - (c) turned 18 years old and has not previously submitted fingerprints for ~~[a CCL]~~ an OBP background check, except when the 18-year-old has previously submitted fingerprints for ~~[a CCL]~~ an OBP background check, then only a new background check ~~[form]~~ application will be required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:
  - (a) ensure that an online background check ~~[form]~~ application is submitted;
  - (b) authorize the child's background check through the CCL provider's portal; and
  - (c) pay any required fees.
- (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (6) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the ~~[department's]~~ guidelines.
- (7) The ~~[department]~~ OBP may consider a covered individual not eligible for any of the following reasons:
  - (a) LIS supported findings that occurred no more than 15 years from the date on which the application was submitted;
  - (b) the covered individual's name appears on the Utah or national sex offender registry;
  - (c) the covered individual refuses to consent to the criminal background check;
  - (d) the covered individual knowingly makes a false statement in connection with their background check;
  - (e) any felony convictions; or
  - (f) for any of the reasons listed under Subsection R430-90-8(8).
- (8) The ~~[department]~~ OBP may also consider a covered individual not eligible for any of the following convictions regardless of severity:
  - (a) child pornography;
  - (b) sexual enticing of a minor;
  - (c) voyeurism;
  - (d) a sexual exploitation act;
  - (e) pornographic material or performance;
  - (f) any crime against an individual;
  - (g) providing dangerous weapons or fire arms to a minor; or
  - (h) driving under the influence while a child is present in the vehicle.
- (9) The ~~[department]~~ OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the ~~[CCL]~~ OBP background check was conducted.
- (10) If the provider is considered not eligible by ~~[CCL]~~ OBP, the ~~[department]~~ office may suspend or deny their license until the reason for the background check finding is resolved.
- (11) If a covered individual is considered not eligible by ~~[CCL]~~ OBP, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.
- (12) If a covered individual is denied a license or employment based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety, ~~[the covered individual]~~ they may appeal the information to the Department of Public Safety.
- (13) The provider and the covered individual shall notify the ~~[department]~~ OBP within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS supported finding. Failure to notify the ~~[department]~~ OBP within 48 hours may result in disciplinary action, including revocation of the license.

(14) The ~~[Executive Director]~~ director or Director ~~[designee]~~ of the ~~[department]~~ OBP may overturn ~~[a CCL]~~ an OBP background check decision if they ~~[Executive Director]~~ determine[s] that the nature of the background finding or mitigating circumstances do not pose a risk to children.

**R430-90-9. Facility.**

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.

(2) The ~~d[department]~~ provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:

- (a) by children;
- (b) for the care of children; or
- (c) to store materials for children.

(3) The department may not include the following areas when measuring indoor space for children's use:

- (a) bathrooms;
- (b) closets;
- (c) hallways;
- (d) lobbies; and
- (e) entryways.

(4) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license, except when providing after school child care for up to three additional school-age children.

(5) 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 five working days and follow required procedures for remediation of the lead hazard.

(6) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.

(7) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.

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

(9) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(10) The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each nondiapered child in care.

(11) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

(12) The provider shall ensure that there is an outdoor area that is safely accessible to children.

(13) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.

(14) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:

- (a) has a speed of 25 miles per hour or higher; or
- (b) has more than two lanes of traffic.

(15) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:

- (a) barbed wire that is within 30 feet of the children's play area;
- (b) livestock on or within 50 yards of the property line;
- (c) dangerous machinery, including farm equipment, on or within 50 yards of the property line;
- (d) a drop-off of more than five feet on or within 50 yards of the property line; and
- (e) a water hazard, including a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.

(16) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(17) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.

(18) If there is a swimming pool on the premises that is not emptied after each use, the provider shall:

- (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;
- (b) maintain the pool in a safe manner; and
- (c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is locked and that separates the pool from any other areas on the premises.

(19) If there is a hot tub with water in it on the premises, the provider shall make the hot tub inaccessible to children by:

- (a) keeping the hot tub locked with a properly working cover; or

(b) enclosing the hot tub within at least a four-foot-high fence or solid barrier that is locked and that separates the hot tub from any other areas on the premises.

(20) 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.

(21) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.

(22) If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the [department] office may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:

- (a) there is a signed rental or lease agreement for the rented area;
- (b) there is a separate mailing address for the rented area;
- (c) there is a separate entrance for the child care program;
- (d) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.

**R430-90-10. Ratios and Group Size.**

(1) The provider shall maintain at least:

- (a) one caregiver for up to eight children in care; and
- (b) two caregivers for nine to 16 children in care.

(2) The provider shall include the provider's and employees' children age four years old or older in care:

- (a) in the group size when the parent of the child is working at the facility; and
- (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.

(3) When caring for children younger than two years old, the provider shall ensure that:

- (a) there is at least one caregiver for every three children younger than two years old;
- (b) each caregiver cares for no more than two children younger than 18 months old; and
- (c) there are at least two caregivers if more than three children younger than two years old are present and there are

more than six children in care.

(4) The provider may not exceed the group sizes found in Table 1 and Table 2.

Number of provider's and caregiver's own children ages 4-12 years present during child care hours	Maximum allowed number of children in care, including the provider's and caregivers' own children younger than 4 years old	Total number of children present in the home during child care hours
0-4 Children	8 Children	12 Children
5 Children	7 Children	12 Children
6 Children	6 Children	12 Children
7 Children	5 Children	12 Children
8 Children	4 Children	12 Children
9 Children	3 Children	12 Children
10 Children	2 Children	12 Children
11 Children	1 Child	12 Children

Number of provider's and caregiver's own children ages 4-12 years present	Maximum allowed number of children in care, including the provider's	Total number of children present in the home during child care hours



during child care hours	and caregivers' own children younger than 4 years old	
0-8 Children	16 Children	24 Children
9 Children	15 Children	24 Children
10 Children	14 Children	24 Children
11 Children	13 Children	24 Children
12 Children	12 Children	24 Children
13 Children	11 Children	24 Children
14 Children	10 Children	24 Children
15 Children	9 Children	24 Children
16 Children	8 Children	24 Children
17 Children	7 Children	24 Children
18 Children	6 Children	24 Children
19 Children	5 Children	24 Children
20 Children	4 Children	24 Children
21 Children	3 Children	24 Children
22 Children	2 Children	24 Children
23 Children	1 Child	24 Children

- (5) The provider may include caregivers and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.
- (6) The provider shall ensure that guests do not count in caregiver-to-child ratio.

**R430-90-11. Child Supervision and Security.**

- (1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:
  - (a) a caregiver is inside the home when a child in care is inside the home;
  - (b) a caregiver is in the outdoor area when a child younger than five years old is in the outdoor area;
  - (c) caregivers know the number of children in their care at any time; ~~and~~
  - (d) caregivers' attention is focused on the children and not on caregivers' personal interests[-]; and
  - (e) each child receives in-person interaction with a caregiver at least every 15 minutes.
- (2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
  - (a) the provider or an eligible adult is physically present and available as needed; and
  - (b) they are not volunteers.
- (3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.
- (4) The provider shall ensure that guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.
- (5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.
- (6) The provider may allow school-age children to be outdoors while caregivers are indoors if:
  - (a) a caregiver can hear the children when children are outdoors; and
  - (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.
- (7) The provider shall ensure that a caregiver monitors each sleeping infant by:
  - (a) placing each infant to sleep within the sight and hearing of a caregiver; or
  - (b) personally observing each sleeping infant at least once every 15 minutes.
- (8) The provider may allow a child to participate in supervised offsite activities without a caregiver if:
  - (a) the provider has prior written permission from the child's parent for the child's participation; and
  - (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.
- (9) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
- (10) To maintain security and supervision of children, the provider shall ensure that:
  - (a) each child is signed in and out in accordance with this section;
  - (b) only parents or individuals with written authorization from the parent may sign-out a child;
  - (c) photo identification is required if the individual signing the child out is unknown to the provider;
  - (d) individuals signing children in and out use identifiers, including 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 the child's parent if school-age children sign themselves in or out.

(11) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:

- (a) the individual giving verbal authorization; and
- (b) the individual picking up the child.

(12) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is on-site for review by the ~~[department]~~office.

**R430-90-12. Child Guidance and Interaction.**

(1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(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) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.

(5) The provider shall ensure that interactions with the children do not include:

(a) any form of corporal punishment or any action that produces physical pain or discomfort including 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]~~mistreatment;

(e) forcing or withholding food, rest, or toileting; or

(f) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage.

(6) Any individual 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 state law.

**R430-90-13. Child Safety and Injury Prevention.**

(1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.

(3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.

(4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.

(5) The provider shall ensure that strangulation hazards including ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.

(6) The provider shall ensure that tripping hazards including unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.

(7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.

(8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.

(9) The provider shall ensure that toxic or hazardous chemicals including cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:

(a) inaccessible to children;

(b) used according to manufacturer instructions;

(c) stored in containers labeled with the contents of the container; and

(d) disposed of properly.

(10) The provider shall ensure that the following items are inaccessible to children:

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other hot substances; and

(d) when in use, portable space heaters, wood burning stoves, and fireplaces.

(11) The provider shall ensure that the following items are inaccessible to children:

(a) live electrical wires; and

(b) for children younger than five years old, electrical outlets and surge protectors without protective caps or safety devices when not in use.

(12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that firearms including guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:

(a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and

(b) stored unloaded and separate from ammunition.

(13) The provider shall ensure that weapons including paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in facility vehicles any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.

(16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, including furniture, unsecured televisions, and standing ladders.

(17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.

(18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.

(19) The provider shall ensure that infant walkers with wheels are inaccessible to children.

(20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, not used:

(a) in the facility or any other building when a child is in care;

(b) in any vehicle that is being used to transport a child in care;

(c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or

(d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

#### **R430-90-14. Emergency Preparedness, Response, and Recovery.**

(1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:

(a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;

(b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;

(c) includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;

(d) is available for review by parents, staff, and the [department]office during business hours; and

(e) is followed if an emergency happens, unless otherwise instructed by emergency personnel.

(2) The provider shall post the facility's street address and emergency numbers, including at least fire, police, and poison control, near the telephone in the home or in an area clearly visible to anyone needing the information.

(3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.

(4) The provider shall conduct fire evacuation drills quarterly and make sure drills include a complete exit of each child, staff, and volunteers from the building.

(5) 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 individual supervising the drill;

(d) the total time to complete the evacuation; and

(e) any problems encountered and remediation.

(6) The provider shall conduct drills for disasters other than fires at least once every 12 months.

(7) The provider shall document each disaster drill, including:

(a) the type of disaster, including 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 individual supervising the drill; and

(e) any problems encountered and remediation.

(8) The provider shall vary the days and times on which fire and other disaster drills are held.

(9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the [department]office.

(10) The provider shall:

(a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;

(b) ensure the report has the signatures of the caregivers involved, the provider, and the individual picking up the child; and

(c) if school-age children sign themselves out of the facility, send a copy of the report 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 provider shall contact the child's parent immediately.

(12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:

(a) call emergency personnel immediately;

- (b) contact the parent after emergency personnel are called; and
- (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (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]office within the next business day of the incident; or
  - (b) contact the [department]office within the next business day and submit a completed accident report form within five business days of the incident.
- (14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by the [department]office.
- (15) If the provider must leave the children due to an emergency and a background checked covered individual who is at least 18 years old or older is not available to stay with the children, the provider may leave the children in the care of an emergency substitute who:
  - (a) is at least 18 years old;
  - (b) substitutes the caregiver for the minimum time possible and for less than one business day; and
  - (c) signs a written background statement before being left alone with the children.
- (16) Before leaving for the emergency, the provider shall obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:
  - (a) has not been convicted of a felony;
  - (b) has not been convicted of a crime against a person;
  - (c) is not listed on the state or national sex offender registry; and
  - (d) is not being investigated for abuse or neglect by any federal, state, or local government agency.
- (17) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to the [department]OBP for review.
- (18) The provider shall ensure compliance with incident reporting in accordance with Subsection R380-600-7(16).

**R430-90-15. Health and Infection Control.**

- (1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:
  - (a) walls and flooring clean and free of spills, dirt, and grime;
  - (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;
  - (c) surfaces free of rotting food or a build-up of food;
  - (d) the building and grounds free of a build-up of litter, trash, and garbage;
  - (e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and
  - (f) the facility 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) The provider shall clean and sanitize any toys and materials used by children:
  - (a) at least once a week or more often if needed;
  - (b) after being put in a child's mouth and before another child plays with the toy; and
  - (c) after being contaminated by a body fluid.
- (4) The provider shall ensure that fabric toys and items including stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.
- (5) The provider shall clean and sanitize highchair trays before each use.
- (6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.
- (7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.
- (8) The provider shall clean and sanitize potty chairs after each use.
- (9) The provider shall keep toilet paper in a dispenser that is accessible to children.
- (10) The provider shall ensure that staff and volunteers wash their hands thoroughly with soap and running water:
  - (a) upon arrival;
  - (b) before handling or preparing food or bottles;
  - (c) before and after eating meals and snacks or feeding a child;
  - (d) after using the toilet or helping a child use the toilet;
  - (e) after contact with a body fluid;
  - (f) when coming in from outdoors; and
  - (g) after cleaning up or taking out garbage.
- (11) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.
- (12) The provider shall ensure that children wash their hands thoroughly with soap and running water:
  - (a) upon arrival;
  - (b) before and after eating meals and snacks;
  - (c) after using the toilet;
  - (d) after contact with a body fluid;

- (e) before using a water play table or tub; and
- (f) when coming in from outdoors.
- (13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.
- (14) The provider shall ensure that if cloth towels are used, cloth towels are:
  - (a) not shared; and
  - (b) washed daily.
- (15) The provider shall store personal hygiene items, including toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.
- (16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:
  - (a) labeled with each child's name or individually identified; and
  - (b) not shared, or washed and sanitized before being used by another child.
- (17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.
- (18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:
  - (a) washed and dried; or
  - (b) placed in a leakproof container that is labeled with the child's name and returned to the parent.
- (19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:
  - (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, including 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, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
  - (g) wash their hands after cleaning up the body fluid.
- (20) If a child becomes ill while in care, the provider shall:
  - (a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and
  - (b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.
- (21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite, on the day the illness is discovered.
- (22) If 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.
- (23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that individuals with an infectious disease or showing symptoms including diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

**R430-90-16. Food and Nutrition.**

- (1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.
- (2) If food for children's meals or snacks is supplied by the provider, the provider shall ensure that:
  - (a) the meal service meets local health department food service rules;
  - (b) the foods that are served 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 uses the CACFP meal pattern requirements, the standard [department]office-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;
  - (d) the current week's menu is posted for review by parents and the [department]office; and
  - (e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.
- (3) The provider shall ensure that the individual who serves food to children:
  - (a) is aware of the children in their assigned group who have food allergies or sensitivities; and
  - (b) ensures that the children are not served the food or drink they are allergic or sensitive to.
- (4) The provider may not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food including a cracker, which may be placed directly in a child's hand.
- (5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:
  - (a) labeled with the child's name;
  - (b) refrigerated if needed; and
  - (c) consumed only by that child.

**R430-90-17. Medications.**

- (1) The provider shall make medications inaccessible to children in care.
- (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.
- (3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications:
  - (a) are labeled with the child's full name;
  - (b) are stored in the original or pharmacy container; and
  - (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 provider shall ensure that the medication permission form includes at least:
  - (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 provider shall ensure that instructions for administering the medication include at least:
  - (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 provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
  - (a) written; or
  - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
  - (a) washes their hands;
  - (b) check the medication label to confirm the child's name if the parent supplied the medication;
  - (c) checks 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) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:
  - (a) the date, time, and dosage of the medication given;
  - (b) any error in administering the medication or adverse reactions; and
  - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the time a medication needs to be given to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by the ~~department~~ office.

**R430-90-18. Activities.**

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.
- (4) For each child two years old and older, the provider shall post a daily schedule that includes:
  - (a) activities that support children's healthy development; and
  - (b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.
- (5) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.
- (6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media including television, cell phones, tablets, and computers is:
  - (a) not allowed for children zero to 17 months old;
  - (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
  - (c) planned to address the needs of children five to 12 years old.

- (7) If swimming activities are offered or if wading pools are used, the provider shall ensure that:
- (a) the parent gives permission before their child in care uses the pool;
  - (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
  - (c) diapered children wear swim diapers when they are in the pool;
  - (d) wading pools are emptied and sanitized after use by each group of children;
  - (e) if the pool is over four feet deep, there is 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
  - (f) lifeguards and pool personnel do not count toward the caregiver-to-child ratio.
- (8) If offsite activities are offered, the provider shall ensure that:
- (a) the parent gives written consent before each activity;
  - (b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;
  - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
  - (d) children's names are not used on nametags, t-shirts, or in other visible ways; and
  - (e) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.
- (9) The provider shall ensure that a caregiver with the children takes the emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
- (a) the child's name;
  - (b) the parent's name and phone number;
  - (c) the name and phone number of an individual to notify if an emergency happens and 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.

**R430-90-19. Play Equipment.**

- (1) The provider shall ensure that children using play equipment use it safely and as intended by the manufacturer.
- (2) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.
- (3) Except for trampolines, the provider shall ensure that stationary play equipment with a designated play surface that is 18 inches high or higher:
  - (a) has a surrounding three-foot use zone, free of hard objects or surfaces, that extends from the outermost edge of the equipment;
  - (b) has cushioning that covers the entire required use zone; and
  - (c) is stable or securely anchored.
- (4) The ~~[department]~~ provider may consider a trampoline on the premises to be inaccessible to children in care if the trampoline:
  - (a) is enclosed behind a locked fence or safety net that is at least three feet high;
  - (b) has no jumping mat; or
  - (c) is placed upside down.
- (5) The provider shall ensure that each accessible trampoline without a safety net enclosure has at least a six-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.
- (6) The provider shall ensure that each accessible trampoline with a properly installed, used as specified by the manufacturer, and in good repair safety net enclosure has at least a three-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.
- (7) The provider shall ensure that each accessible trampoline with or without a safety net enclosure is placed over:
  - (a) grass;
  - (b) a six-inch deep cushioning; or
  - (c) other commercial cushioning.
- (8) The provider shall ensure that cushioning for each accessible trampoline covers the entire required use zone.
- (9) The provider shall ensure that each accessible trampoline has:
  - (a) no ladders or other objects within the use zone a child could use to climb on the trampoline; and
  - (b) shock absorbing pads that completely cover the trampoline springs, hooks, and frame.
- (10) The provider shall receive written permission from a child's parent or legal guardian before that child uses the trampoline.
- (11) The provider shall ensure that if a child uses an accessible trampoline:
  - (a) a caregiver is at the trampoline supervising;
  - (b) only one person at a time uses the trampoline;
  - (c) no child in care is allowed to do somersaults or flips on the trampoline;
  - (d) no one is allowed to be under the trampoline while the trampoline is in use; and
  - (e) only school-age children in care are allowed to use a trampoline.

(12) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.

(13) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.

(14) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

(15) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

#### **R430-90-20. Transportation.**

- (1) For each child that the ~~licensee~~ provider transports, the provider shall obtain a transportation permission form:
  - (a) signed by the parent; and
  - (b) on-site for review by the ~~department~~ office.
- (2) The provider shall ensure that each vehicle used for transporting children:
  - (a) is enclosed with a roof or top;
  - (b) is equipped with safety restraints;
  - (c) has a current vehicle registration;
  - (d) is maintained in a safe and clean condition; and
  - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
  - (a) appropriate for the age and size of each child who is transported, as required by Utah law;
  - (b) properly installed; and
  - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
  - (a) is at least 18 years old;
  - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
  - (c) has with them the emergency contact information outlined in Subsection R430-90-18(9) for each child being transported;
  - (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;
  - (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
  - (f) never leaves a child in the vehicle unattended by an adult;
  - (g) ensures that children stay seated while the vehicle is moving;
  - (h) never leaves the keys in the ignition when not in the driver's seat; and
  - (i) ensures that the vehicle is locked during transport.
- (5) If 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 caregiver goes with the children and actively supervises the children;
  - (c) the caregiver-to-child ratio is maintained; and
  - (d) a caregiver with the children has emergency contact information outlined in Subsection R430-90-18(9) and releases for the children being transported.
- (6) The provider shall:
  - (a) have transport liability insurance; or
  - (b) inform parents in writing that the provider does not have transport liability insurance.

#### **R430-90-21. Animals.**

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is 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 individual.
- (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that children younger than five years old do not assist with the cleaning of animals or animal cages, pens, or equipment.
- (6) If school-age children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.
- (8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by the ~~department~~ office.



**R430-90-22. Rest and Sleep.**

- (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.
- (2) The provider may not schedule nap or rest times for more than two hours a day.
- (3) The provider shall ensure that each crib:
  - (a) has a tight-fitting mattress;
  - (b) has slats spaced no more than 2-3/8 inches apart;
  - (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;
  - (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and
  - (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.
- (4) The provider shall ensure that sleeping equipment does not block exits.
- (5) The provider shall ensure that sleeping equipment and bedding items are:
  - (a) clearly assigned to one child; and
  - (b) laundered as needed, but at least once a week, and before use by another child.
- (6) The provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual child before each use.

**R430-90-23. Diapering.**

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall ensure that each child's diaper is:
  - (a) checked at least once every two hours;
  - (b) promptly changed if wet or soiled; and
  - (c) checked as soon as a sleeping child awakens.
- (3) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.
- (4) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (5) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (6) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.
- (7) The provider shall ensure that caregivers place wet and soiled disposable diapers:
  - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
  - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
  - (c) in a container that is inaccessible to children.
- (8) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.
- (9) If cloth diapers are used, the provider shall:
  - (a) not rinse cloth diapers at the facility; and
  - (b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or place the cloth diapers in a leakproof diapering service container.

**R430-90-24. Infant and Toddler Care.**

- (1) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15[20] minutes.
- (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.
- (3) The provider shall ensure that caregivers respond promptly to infants and toddlers who are in emotional distress due to conditions including hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.
- (4) For their healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.
- (5) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.
- (6) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.
- (7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.
- (8) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.
- (9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.
- (10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual infants and toddlers use is:
  - (a) labeled with the child's name;
  - (b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;

- (c) refrigerated if needed; and
- (d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.
- (11) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that bottles are not propped.
- (12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.
- (13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.
- (14) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.
- (15) The provider shall ensure that infants sleep in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that infants are not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.
- (16) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.
- (17) The provider may not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

**KEY: child care facilities, licensed family child care**

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